

*These notes refer to the Local Transport Act 2008 (c.26)
which received Royal Assent on 26 November 2008*

LOCAL TRANSPORT ACT 2008

EXPLANATORY NOTES

INTRODUCTION

1. These Explanatory Notes relate to the Local Transport Act 2008 (“the Act”), which received Royal Assent on 26 November 2008. They have been prepared by the Department for Transport in order to assist the reader in understanding the Act. They do not form part of the Act and have not been endorsed by Parliament.

2. The notes need to be read in conjunction with the Act. They are not, and are not meant to be, a comprehensive description of the Act. So where a section or part of a section does not seem to require any explanation or comment, none is given.

SUMMARY AND BACKGROUND

3. The provisions in the Act are intended to address increasing road congestion and to improve the quality of local bus services. The policy context and related background were set out in the consultation document *Strengthening Local Delivery: the draft Local Transport Bill*, published in May 2007 (Cm 7043). The Government’s response to the consultation was published in November 2007, and copies are available from the Department for Transport’s website (www.dft.gov.uk).

4. The Act contains provisions to amend the law relating to:

- the responsibilities of local authorities in relation to local transport policies and plans;
- the operation of local bus services and related matters, including provisions relating to traffic commissioners;
- the constitution and functions of Passenger Transport Authorities (“PTAs”), which are renamed as Integrated Transport Authorities (“ITAs”);
- the establishment and operation of local and London road user charging schemes (commonly referred to as “local road pricing schemes”).

5. It also contains provision conferring a new framework power on the National Assembly for Wales that will enable the Assembly to make provision for and in connection with charging schemes for Welsh trunk roads, and certain other miscellaneous provisions.

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Local bus services

Legal background

6. The current legal framework within which local bus services are operated in England and Wales (outside Greater London) is set out in the Transport Act 1985 (“the TA 1985”). In brief, the effect of the provisions contained in that Act was to deregulate the bus market outside London.

* *Local bus services* are services provided on public service vehicles, on which passengers may travel for distances of less than 15 miles.

Quality partnership and quality contracts schemes

7. Part 2 of the Transport Act 2000 (“the TA 2000”) includes provisions relating to “quality partnership schemes” and “quality contracts schemes”. A quality partnership scheme is a scheme under which:

- a local authority provides specified facilities in their area: such facilities might include bus lanes or other bus priority measures, or enhanced facilities for passengers at bus stops and bus stations; and
- operators of local services who wish to use such facilities must undertake to provide those services to a particular standard when using those facilities.

8. A quality contracts scheme is a scheme under which:

- a local authority determines what local services should be provided in the area to which the scheme relates and any additional facilities or services which should be provided in that area; and
- local services may be provided in that area only in accordance with quality contracts entered into by a local authority with a bus operator following a competitive tendering process, unless they are explicitly excluded from the scheme.

A scheme may comprise one or more contracts relating to services that form part of the overall scheme.

9. A quality contracts scheme therefore has the effect of closing down the deregulated market established under the TA 1985 in the area to which it applies, for the duration of the scheme.

Voluntary partnership agreements

10. A number of local authorities have entered into agreements with bus operators independently of the statutory provisions contained in the TA 2000. Such voluntary agreements are used as a means of improving the quality of bus services in a particular area, but without the restrictions which are imposed by the statutory schemes. The majority are bilateral agreements between one authority and one operator. Many have been in place since before the TA 2000 provisions on quality partnership schemes were brought into force, while

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others have been made subsequently in preference to using the statutory route described above.

The Act

11. The Act includes measures to:

- create a statutory post of “senior traffic commissioner” and increase flexibility in the deployment of traffic commissioners in England and Wales;
- amend provisions in the TA 2000 relating to quality partnership and quality contracts schemes;
- provide a tailored competition test relating to voluntary partnership agreements and certain other agreements entered into by bus operators;
- strengthen the enforcement powers of the traffic commissioners;
- amend existing legislative provisions relating to the community transport sector;
- enable the establishment of a statutory body to represent the interests of bus passengers or the conferral of appropriate bus-related functions on the Rail Passengers’ Council; and
- amend a number of other legislative provisions that relate to local public passenger transport services.

* The *traffic commissioners* are appointed by the Secretary of State under section 4 of the Public Passenger Vehicles Act 1981 (“the PPVA 1981”). There is currently a traffic commissioner for each traffic area in Great Britain. Each traffic commissioner has responsibilities relating to the goods vehicle and public service vehicle sectors and the registration of local bus services.

Local transport functions

Legal background

12. At present, responsibility for setting overall strategies for transport services for a particular area in England (outside London and the six metropolitan counties) lies with the county council or unitary authority, which is also the local highways authority and local traffic authority for that area. Under section 108 of the TA 2000, these local transport authorities are required to develop policies relating to local transport, and to prepare and publish a local transport plan.

13. In the metropolitan counties outside London (West Midlands, Greater Manchester, Merseyside, South Yorkshire, West Yorkshire and Tyne & Wear) these responsibilities are split. The metropolitan counties have been designated as “passenger transport areas” and a PTA has been established in relation to each of those areas, with responsibility for planning local transport services (jointly with metropolitan district councils) and for procuring public transport services. The metropolitan district councils have responsibility for the local road network as local traffic authorities and local highways authorities.

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14. Across England (outside London) the Secretary of State, acting through the Highways Agency, is the highways authority and traffic authority for the strategic road network.

The Act

15. The Act amends provisions in Part 2 of the TA 2000 concerning local transport policies and plans. These changes will apply in all local authority areas outside London. The Act expands the existing duty on local transport authorities to develop policies relating to transport, so that these policies must cover all aspects of transport, rather than the currently more limited requirement relating only to transport facilities and services, and must take the protection and improvement of the environment (including mitigation of, and adaptation to, climate change) into account. The Act also provides that in the six metropolitan counties this duty will lie solely with the Integrated Transport Authority (see below). The Act also amends the arrangements for preparing and publishing the local transport plans which contain those policies, removes the need for local transport authorities to prepare a separate bus strategy, and amends an existing duty relating to the needs of persons who are elderly or have mobility problems so that it applies also to the needs of disabled persons.

16. The Act also provides a means for making changes to the organisational arrangements for the discharge of statutory transport functions in local authority areas (“governance”). It changes the name “Passenger Transport Authority” (“PTA”) to “Integrated Transport Authority” (“ITA”), and enables changes to be made to the constitutions and functions of the renamed ITAs. It includes provisions relating to the establishment of new ITAs, and provision enabling changes to be made to the boundaries of existing integrated transport areas. It also gives all ITAs power to promote or improve the economic, social and environmental well-being of their areas.

Local charging schemes

Legal background

17. Part 3 of the TA 2000 includes provisions relating to local charging schemes in England and Wales. These provisions set out the conditions under which a local authority outside Greater London can set up a charging scheme in relation to roads for which they are the local traffic authority. The Greater London Authority Act 1999 (“the GLA Act 1999”) included powers for Transport for London, the London boroughs and the Common Council to establish charging schemes in their areas. The GLA Act 1999 provides the vires for the London Congestion Charge and the London Low Emission Zone. The Transport (Scotland) Act 2001 includes provisions relating to charging schemes in Scotland.

* A *local traffic authority* is a traffic authority, other than the Secretary of State, which has functions under Part 10 of the Road Traffic Regulation Act 1984.

* The *Common Council* is the Common Council of the City of London.

The Act

18. Provisions in the Act allow ITAs to make a charging scheme jointly with local traffic authorities, provide that local charging authorities will no longer require the approval of the Secretary of State for their schemes, and make a number of other miscellaneous amendments to the provisions of the GLA Act 1999 and the TA 2000.

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OVERVIEW OF STRUCTURE

19. The Act is organised in eight Parts and seven Schedules.
20. *Part 1* contains provisions relating to traffic commissioners.
21. *Part 2* amends Part 2 of the TA 2000, in particular the duties on local transport authorities to develop transport policies and prepare and publish local transport plans and bus strategies.
22. *Part 3* contains provisions relating to local bus services, amending in particular Part 2 of, and Schedule 10 to, the TA 2000.
23. *Part 4* contains a number of general provisions relating to passenger transport, amending various sections of the Transport Act 1968 (“TA 1968”), the PPVA 1981, the TA 1985, the TA 2000 and other enactments.
24. *Part 5* makes provision relating to Integrated Transport Authorities (“ITAs”).
25. *Part 6* amends provisions relating to local and London charging schemes in Part 3 of, and Schedule 12 to, the TA 2000 and Schedule 23 to the GLA Act 1999.
26. *Part 7* contains miscellaneous provisions relating to the powers of the National Assembly for Wales, certain aspects of the regulatory regime for goods vehicles, and the disclosure and use of information about foreign-registered vehicles, as well as amending the New Roads and Street Works Act 1991, the Traffic Management Act 2004 and the Road Traffic Offenders Act 1988.
27. *Part 8* contains supplementary provisions.
28. *Schedule 1* substitutes references to “local transport policies” (as defined by a new provision inserted by Part 2) in place of certain references in the TA 2000 to local transport plans or bus strategies.
29. *Schedule 2* amends provisions in Schedule 10 to the TA 2000, which applies a competition test to the exercise of certain functions by local transport authorities. It also inserts a new competition test, applying to voluntary partnership agreements and certain other agreements, and makes specific provision for investigation and enforcement action to be taken by the Office of Fair Trading in relation to such agreements.
30. *Schedule 3* contains provisions empowering the Secretary of State to put in place a new enforcement regime for certain public service vehicles operated without a valid operator’s licence.

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31. *Schedule 4* contains amendments to various enactments, consequential on the provisions in Part 5 under which passenger transport areas and metropolitan county passenger transport authorities in England and Wales are to be known as integrated transport areas and Integrated Transport Authorities (“ITAs”) respectively.

32. *Schedule 5* contains minor and consequential amendments to the TA 2000, relating to provisions in Part 5 that introduce the name “ITA”, and in Part 6 that allow ITAs to make local charging schemes jointly with local traffic authorities.

33. *Schedule 6* amends Schedule 12 to the TA 2000, which contains financial provisions relating to charging schemes under Part 3 of that Act, and Schedule 23 to the GLA Act 1999.

34. *Schedule 7* contains repeals relating to Parts 2 to 6 of the Act.

TERRITORIAL EXTENT

35. Provisions in the Act extend to England and Wales, with certain specified provisions also extending, in whole or in part, to Scotland and Northern Ireland.

36. The provisions extending to Scotland are:

- sections 1 to 6, which amend provisions in the PPVA 1981 relating to traffic areas and traffic commissioners, and create a statutory post of senior traffic commissioner; their application to Scotland is limited to matters which are not devolved;
- section 47 and Schedule 3, which facilitate the detention of certain public service vehicles (“PSVs”) used without valid PSV operators’ licences;
- sections 53 and 54(1) to (7), which enable the holders of private hire vehicle (“PHV”) licences to operate local bus services; these provisions are drafted so as to extend this provision to holders of PHV licences in Scotland;
- sections 55 and 56, which make provision relating to the carrying of disabled persons in wheelchairs in designated taxis and PHVs that are being used to operate local bus services;
- sections 57 to 61, which make provision relating to permits issued under sections 19 and 22 of the TA 1985 (which exempt the operators of particular community services from certain licensing requirements);
- section 68(1) and (2), which makes provision relating to the payment by local councils of subsidy to secure passenger transport services;

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- section 72, which provides for remuneration to be paid to members of the Disabled Persons Transport Advisory Committee; in relation to Scotland, the provision applies only to matters that are not devolved;
 - section 74, which provides a power for the Secretary of State to confer certain non-rail functions on the Rail Passengers' Council;
 - section 119, which provides a power for the Secretary of State to charge a reasonable fee for the provision of information obtained by the Secretary of State in the exercise of any function that relates to reserved matters to charging authorities in relation to a charging scheme made under Part 3 of the Transport (Scotland) Act 2001;
 - section 122, which inserts a new matter into Schedule 5 to the Government of Wales Act 2006;
 - section 125, which amends certain requirements relating to goods vehicle operator licensing;
 - section 126, which amends existing provision relating to the detention of certain goods vehicles;
 - section 128, which amends the Road Traffic Offenders Act 1998 so as to enable financial deposit requirements to be imposed on those who are issued with conditional offers in Scotland by vehicle examiners;
 - sections 129 and 130, which make provision about the disclosure and use of information obtained by the Secretary of State in relation to foreign registered vehicles;
 - sections 132 (interpretation), 133 (extent), 134 (commencement) and 135 (short title); and
 - the repeals in Part 3 of Schedule 7 (repeals) relating to sections 22 and 23 of the TA 1985, and section 131 so far as relating to those repeals.
37. The Act does not contain any provisions that triggered the Sewel Convention in Scotland.
38. The provisions extending to Northern Ireland are:
- section 122, which inserts a new matter into Schedule 5 to the Government of Wales Act 2006;
 - sections 129 and 130, which relate to the disclosure of information relating to foreign-registered vehicles; and

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- sections 132 (interpretation), 133 (extent), 134 (commencement) and 135 (short title).

TERRITORIAL APPLICATION: WALES

39. The Act confers a number of new or expanded powers on the Welsh Ministers, in line with changes being made to certain powers of the Secretary of State in relation to England. In addition, one provision, which relates to the application of revenues from local charging schemes, would replace an existing power for the Welsh Ministers to make regulations with provision on the face of the TA 2000.

40. Table 1 below lists the sections which *affect the existing powers of, or confer new powers on, the Welsh Ministers*.

Table 1: Sections which affect the existing powers of, or confer new powers on, the Welsh Ministers

Section(s)	Subject of section(s)	Effect on the powers of the Welsh Ministers
Part 3: section 18	Regulations about certain quality partnership schemes	A new power for the Welsh Ministers to make regulations in respect of quality partnership schemes which specify frequencies, timings or fares.
Part 3: section 26	Making of a quality contracts scheme	The power for the Welsh Ministers by order to vary a time period stipulated in section 127 of the TA 2000 is extended to include power to vary certain other time periods.
Part 3: section 32	Exempt continuation proposals	A new power for the Welsh Ministers to prescribe circumstances, in addition to those listed in section 32, in which a proposal is to be treated as an exempt continuation proposal.
Part 3: section 34	Procedure for continuation of quality contracts schemes for areas in Wales	New provisions in the Act allow the continuation of a quality contracts scheme beyond its initial ten year period. For schemes in Wales, the Welsh Ministers will have the power to approve the continuation (except where the continuation is exempt, and therefore requires no approval, because it meets specified conditions).

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Section(s)	Subject of section(s)	Effect on the powers of the Welsh Ministers
Part 3: section 35	Appeals where continuation proposals considered exempt	New power for the Welsh Ministers to make regulations with respect to the procedures to be followed in cases where the Transport Tribunal decide that a proposal to continue a quality contracts scheme was not an exempt continuation proposal.
Part 3: section 37	Variation or revocation of quality contracts scheme	Certain variations of quality contracts schemes are exempt from the requirement to be approved by the Welsh Ministers. The Welsh Ministers are also empowered to make regulations to modify or exclude the procedure to be followed when varying or revoking a scheme.
Part 3: section 38	Appeals where proposed variation considered exempt	New power for the Welsh Ministers to make regulations with respect to the procedures to be followed in cases where the Transport Tribunal decide that a variation of a quality contracts scheme was not an exempt variation.
Part 3: section 41	Regulations about quality contracts schemes	The powers of the Welsh Ministers to make regulations are extended so that regulations may additionally make provision with respect to the continuation of quality contracts schemes, and with respect to the application of provisions relating to quality contracts schemes in Part 2 of the TA 2000 in certain specified circumstances.
Part 3: section 42	Power to make transitional provision about schemes	The power for the Welsh Ministers to make regulations governing the transitional period between the making and coming into force of a quality contracts scheme is extended to cover the continuation of schemes, and to enable such regulations to modify provisions about the letting of subsidy contracts.
Part 3: section 43	Guidance about schemes	A power for the Welsh Ministers to issue guidance to local authorities about the performance of their functions in respect of quality contracts schemes.

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Section(s)	Subject of section(s)	Effect on the powers of the Welsh Ministers
Part 4: section 64	Additional sanctions for failures by bus operators	A power for the Welsh Ministers to prescribe additional forms of orders that a traffic commissioner may make under section 155(1A) of the TA 2000.
Part 4: section 69	Subsidy to secure passenger transport services in Wales	Extension of existing power for the Welsh Ministers to subsidise public passenger transport services to cover standards of service.
Part 4: section 75	Power to require display of certain information	New power for the Welsh Ministers to make regulations requiring prescribed persons to display prescribed information relating to persons or bodies with functions relating to public passenger transport services.
Part 6: section 112	Charges	Charging schemes (including those made by the Welsh Ministers under section 167 of the TA 2000) may impose different charges for different means of recording, administering, collecting or paying the charge.
Part 6: section 113	Manner of payment of charges in a charging scheme	A new power for the Welsh Ministers to make regulations regulating the manner in which, in certain circumstances, persons may pay road user charges.
Part 6: section 114	Suspension of charging schemes	Charging schemes made by the Welsh Ministers under the TA 2000 may be suspended in an emergency or for a temporary event.
Part 6: section 115	Interference with functioning of equipment	An extension to the existing power for the Welsh Ministers, by regulations, to make certain provisions relating to examination of, or entry into, a motor vehicle for certain purposes.
Part 6: section 116	Use of equipment for charging schemes	A new power for the Welsh Ministers to regulate the manner in which equipment installed as part of a charging scheme is used, supplementing the existing power for them to make regulations to approve standards for such equipment.

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Section(s)	Subject of section(s)	Effect on the powers of the Welsh Ministers
Part 6: section 117	Power to require information	A new power for the Welsh Ministers to direct a local traffic authority in Wales to provide specified information relating to the performance or proposed performance of their functions under Chapter 1 of Part 3 of the TA 2000.
Part 6: section 118	Information	A new power for the Welsh Ministers to charge a reasonable fee for the supply of information under section 194(1) and (3) of the TA 2000.
Part 6: section 121 and Schedule 6	Application of revenues from charging schemes	The existing power for the Welsh Ministers to make regulations relating to the use of net proceeds from local charging schemes in Wales (other than during the initial period of an early relevant scheme) is replaced with a requirement that all such net proceeds may only be used to facilitate the achievement of the charging authority's local transport policies.

41. Table 2 below summarises the provisions in the Act which *have different effect in Wales, as compared to their effect in England* (outside London). Table 2 does not repeat measures set out in Table 1.

Table 2: Measures which have different effect in Wales, as compared to England (outside London)

Section(s)	Subject of section	Effect in Wales
Part 2	Transport policies	The following do not have effect in Wales: the duty on local transport authorities to take into account Government policies on protecting and improving the environment (section 8(4)), the duty to include implementation proposals in the local transport plan (section 9(1)), the power to replace the local transport plan as the local transport authority thinks fit rather than to a 5 year timetable (section 9(3)), the duty to consult certain persons when preparing a local transport plan (section 9(4)), the duty on ITAs to prepare the local transport plan (section 12).

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Section(s)	Subject of section	Effect in Wales
Part 3: sections 19 to 45	Quality contracts schemes	While the Act amends the procedures that apply in relation to the making of a quality contracts scheme in England (and in some cases in Wales), the Act preserves the existing provisions whereby (i) a scheme in Wales must be approved by the Welsh Ministers; and (ii) there is no right of appeal to the Transport Tribunal in relation to the Welsh Ministers' decisions to approve or reject a scheme.
Part 4: section 66	Revival of certain powers of PTEs	There are no PTEs in Wales, and so the provisions do not have any effect there.
Part 4: section 67	Subsidy to secure passenger transport services in integrated transport areas	There are no integrated transport areas in Wales, and so the provisions do not have any effect there.
Part 4: section 73	Public Transport Users' Committee for England	This section has no effect in Wales, where separate arrangements for passenger representation apply.
Part 4: section 74	Power to confer non-rail functions on the Rail Passengers' Council	The power is limited to functions relating to local bus services, scheduled coach services and tram services to the extent that they operate within England, and passenger transport facilities in England. It has no effect in Wales, where separate arrangements for passenger representation apply.
Part 5	Integrated Transport Authorities etc.	There are no ITAs in Wales, and so the provisions do not have any effect there.
Part 6: sections 103 to 109	Involvement of Integrated Transport Authorities in charging schemes	There are no ITAs in Wales, and so the provisions do not have any effect there.

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Section(s)	Subject of section	Effect in Wales
Part 6: section 110	Removal of requirement for Secretary of State confirmation of charging schemes in England	The section preserves the existing provision that the order by which a local charging scheme in Wales is made must be approved by the Welsh Ministers.
Part 6: section 111	Amendment to powers relating to inquiries into local charging schemes	The section preserves the existing provisions allowing the Welsh Ministers to require a local charging authority to consult on, or to allow the Welsh Ministers to hold an inquiry into, a local charging scheme. Accordingly the new duty on local charging authorities to consult before making a local charging scheme does not apply in Wales.
Part 6: section 121 and paragraph 4 of Schedule 6	Financial provisions relating to road user charging schemes	The amendments to paragraph 10(3) of Schedule 12 to the TA 2000 preserve, in Wales, the existing requirement for the Welsh Ministers to approve a local traffic authority's plans for the application of revenues from a local charging scheme.

POWERS FOR THE NATIONAL ASSEMBLY FOR WALES

42. Section 122 confers a new framework power on the National Assembly for Wales by inserting a matter into field 10 (highways and transport) of Schedule 5 to the Government of Wales Act 2006. This is discussed further at the appropriate place under "Commentary" below. The existing power for information obtained by any Minister of the Crown, government department, local authority or other statutory body to be disclosed to charging authorities under Part 3 of the TA 2000 is extended to allow information to be disclosed to the Welsh Ministers in relation to charging schemes established pursuant to an Assembly Measure under Part 3 of the Government of Wales Act 2006 (see section 123).

APPLICATION: LONDON

43. In relation to many of the matters covered in the Act, separate provision is made for London by other enactments, including the GLA Act 1999. The following table lists the provisions in the Act which have application in London.

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Table 3: Measures which have application in London

Section or Part	Subject of section or Part
Part 1	The traffic commissioners.
Part 4: section 47 and Schedule 3	Detention of certain public service vehicles used without valid operator's licence.
Part 4: sections 53 and 54	Use of private hire vehicles to provide local services outside London, power for Transport for London to extend the provisions to Greater London and power for Transport for London to make certain regulations in relation to taxis and hire cars.
Part 4: sections 55 and 56	Carrying of passengers in wheelchairs in vehicles providing local services.
Part 4: sections 57 to 61	Vehicles used under permits issued under sections 19 and 22 of the TA 1985.
Part 4: section 62	Attachment of conditions to related licences (applies in London to a limited extent).
Part 6: sections 107 to 109	Involvement of ITAs in charging schemes. These provisions cater for the possibility of a future ITA being established in the vicinity of London, and the local traffic authority and/or the ITA seeking to make a charging scheme jointly with one or more charging authorities in London.
Part 6: section 112	Charges.
Part 6: section 113	Supplementary provision as to charging schemes.
Part 6: section 115	Interference with functioning of equipment.
Part 6: section 116	Use of equipment for charging schemes.
Part 6: section 117	Power of national authority to require information from charging authorities.
Part 6: section 118	Information: England and Wales.
Part 6: section 120	London charging schemes: 10 year plan for share.

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Section or Part	Subject of section or Part
Part 6: section 121 and Schedule 6	Application and apportionment of net proceeds of a London charging scheme.
Part 7: section 124	Street works: reinstatement and remedial works
Part 7: section 125	Amendment of certain requirements relating to goods vehicle operator licensing.
Part 7: section 126	Goods vehicles used without operators' licence: power to return detained vehicles.
Part 7: section 129	Disclosure of information relating to foreign-registered vehicles.

COMMENTARY

Part 1: The traffic commissioners

Section 1: Traffic areas

44. Section 3(2) of the Public Passenger Vehicles Act 1981 ("PPVA 1981") empowers the Secretary of State by order to vary the extent or number of traffic areas. *Section 1* inserts new subsections (2A), (2B) and (2C) into section 3 of the PPVA 1981.

45. These new subsections provide that an order made under section 3(2) may include amendments or modifications to any provision of the Local Transport Act 2008 or any other enactment needed to give full effect to any changes to traffic areas in England and Wales. Orders made under this provision are subject to the affirmative resolution procedure.

Section 2: Traffic commissioners

46. *Subsection (2)* substitutes subsections (1) and (2) of section 4 of the PPVA 1981. The effect is to abolish the existing requirement for a traffic commissioner to be appointed for each traffic area. Instead, the Secretary of State may appoint such number of traffic commissioners for England and Wales as is considered appropriate. However, a single commissioner for the Scottish Traffic Area is retained. New section 4(2) continues the existing provision for traffic commissioners to be appointed by the Secretary of State and provides for them to be known as "traffic commissioners".

47. *Subsection (4)* inserts new section 4(3A) and (3B) into the PPVA 1981 to define the jurisdiction of traffic commissioners. Traffic commissioners in England and Wales are granted full jurisdiction in respect of all their statutory functions throughout England and Wales, and also in relation to "reserved matters" (within the meaning of the Scotland Act

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1998) in the Scottish traffic area. The Scottish Commissioner is granted full jurisdiction in respect of all devolved and reserved statutory functions in the Scottish traffic area, and also in relation to reserved matters in England and Wales.

Section 3: The senior traffic commissioner

48. The Secretary of State has designated one of the traffic commissioners as senior traffic commissioner. The post currently has no statutory basis and the post holder no statutory powers. *Subsection (1)* inserts new sections 4A to 4D into the PPVA 1981 to put this post on a statutory footing.

49. New section 4B confers powers on the senior traffic commissioner to deploy other traffic commissioners. The effect is that the senior traffic commissioner can require any traffic commissioner or deputy in England and Wales to carry out any function at any place within that jurisdiction, and also to carry out reserved functions in Scotland. The senior traffic commissioner can also require the traffic commissioner for the Scottish Traffic Area, and his deputies, to carry out any reserved function in any place in England and Wales.

50. New section 4C empowers the senior traffic commissioner, following consultation, to issue guidance and general directions to traffic commissioners about the exercise of any of their functions. Traffic commissioners would be required to act under the general directions of, and to have regard to any such guidance given by, the senior traffic commissioner. This replaces the previous requirement for traffic commissioners to act under the general directions of the Secretary of State (whose power to give such directions is removed). The power of the senior traffic commissioner to issue guidance and directions to the Scottish traffic commissioner extends only to reserved matters.

51. New section 4D empowers the Secretary of State to issue guidance to the senior traffic commissioner on the exercise of his functions, and subsection (2) requires the senior traffic commissioner to have regard to any such guidance.

52. Section 3 also provides for additional remuneration to be paid to the senior traffic commissioner, and includes a transitional provision so that the person designated as senior traffic commissioner prior to the creation of the new statutory post will become the first holder of that office.

Section 4: Amendments of Schedule 2 to the PPVA 1981

53. This section amends Schedule 2 to the PPVA 1981, which includes provisions about the terms of service of traffic commissioners, appointment and terms of office of deputy traffic commissioners, and pensions and remuneration.

54. The circumstances in which the Secretary of State can dismiss a traffic commissioner are amended. Currently a traffic commissioner can be dismissed for “inability or misbehaviour”. Under the new provisions the Secretary of State could dismiss a traffic commissioner for misbehaviour or because that traffic commissioner is unable, unfit or unwilling to perform the functions of a traffic commissioner to a satisfactory standard.

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55. Section 4 inserts new provisions relating to the appointment and terms of office of deputy traffic commissioners in England and Wales. The effect is to empower the Secretary of State to appoint such number of deputy traffic commissioners in England and Wales as the Secretary of State thinks fit. Deputy traffic commissioners for England and Wales may be deployed by the senior traffic commissioner to exercise any of their functions in any place in England and Wales, and to exercise functions in relation to reserved matters in the Scottish Traffic Area.

56. The existing powers in paragraphs 3 to 5 of Schedule 2 relating to the appointment and terms of office of deputy traffic commissioners will in future apply in Scotland only.

Section 5: Transitional provision for existing traffic commissioners etc

57. This section contains transitional provisions which will apply to traffic commissioners and deputy traffic commissioners in England and Wales who are in post when these provisions come into force. In particular, traffic commissioners already in post will remain on their existing terms and conditions of employment, except that they will be subject to the revised terms on dismissal in the amended paragraph 1 of Schedule 2 to the PPVA 1981 (see notes on section 4 above). Similar provisions are made for any existing traffic commissioner for the Scottish Traffic Area. As the appointment and terms of office for any deputy traffic commissioner for the Scottish Traffic Area are not affected by these provisions, no transitional arrangements are required.

Section 6: Consequential amendments

58. This section empowers the Secretary of State, in secondary legislation, to make any necessary consequential changes to the Local Transport Act 2008 and to other legislation (primary and secondary) to give full effect to the new provisions about traffic commissioners. This will be necessary in particular to reflect the new jurisdiction of traffic commissioners and the removal of the link in England and Wales between particular commissioners and specific traffic areas. The power is limited, in so far as it extends to Scotland, to reserved matters. Orders made under this provision will be subject to the affirmative resolution procedure.

Part 2: Transport policies

Section 7: Local transport policies

59. This section, together with Schedule 1, inserts the new term “local transport policies” into Parts 2 and 3 of the TA 2000. This is defined as the policies developed under section 108(1)(a) of the TA 2000. Section 108(1)(a), as amended by section 8 of the Act, will require each local transport authority to develop policies “for the promotion and encouragement of safe, integrated, efficient and economic transport to, from and within their area”.

60. This section extends to England and Wales.

Section 8: Nature of duty to develop transport policies

61. This section amends section 108 of the TA 2000. *Subsection (2)* omits the words “facilities and services” from the duty in section 108(1)(a), as described in relation to section 7 above. *Subsection (3)* makes consequential changes following on from subsection (2).

*These notes refer to the Local Transport Act 2008 (c.26)
which received Royal Assent on 26 November 2008*

62. *Subsection (4)* inserts new subsections (2ZA) to (2ZC) in section 108 of the TA 2000. These subsections create new duties on all English local transport authorities: first, to take account of any policies announced by the Government, and, secondly, to have regard to any guidance issued by the Secretary of State, with respect to the mitigation of, or adaptation to, climate change or otherwise with respect to the protection or improvement of the environment.

Section 9: Local transport plans

63. This section amends the duty in sections 108 and 109 of the TA 2000 for local transport authorities to produce a local transport plan (“LTP”). *Subsection (1)* provides that an LTP in England must be one or more documents containing local transport policies plus proposals for implementing those policies. *Subsection (3)* replaces the obligation on local transport authorities to replace their LTPs every five years with a power to replace them as they think fit. *Subsection (4)* inserts new subsections (2A) to (2D) into the TA 2000 which list those authorities which (i) local transport authorities other than ITAs, and (ii) ITAs, must consult in drawing up their LTP and keeping it under review.

Section 10: Bus strategies no longer required

64. This section repeals the requirement under the TA 2000 for local transport authorities – including ITAs – to prepare a bus strategy. Following on from this, *subsections (8) to (11)* make consequential amendments to the TA 1968 and the TA 1985.

Section 11: Duty to have regard to transport needs of disabled persons

65. Section 112(2) of the TA 2000 contains a duty for local transport authorities, when *developing* their policies under section 108(1) of that Act, to have regard to the transport needs of persons who are “elderly or have mobility problems”.

66. Section 11 amends that duty in two respects. First, it provides that it will extend additionally to the *implementation* (as well as the *development*) of local transport policies. Secondly, it extends it to cover the transport needs of all “disabled persons” within the meaning of the Disability Discrimination Act 1995 (as amended by the Disability Discrimination Act 2005), in addition to those to whom it already extends.

Section 12: Development of policies by ITA no longer joint duty with district councils

67. The provisions in section 12 remove the previous joint duty on PTAs and metropolitan district councils in a passenger transport area to produce a local transport plan under section 108(1)(a), and place the duty in future solely with the ITA (see section 9). The duty in section 108(1)(b) to carry out functions so as to implement those policies continues to apply to metropolitan district councils, who will also in this respect be subject to the new duty in section 108(2ZB) to have regard to certain policies and guidance relating to the protection or improvement of the environment.

Part 3: Bus Services

Sections 13 to 18: Quality partnership schemes

68. Sections 13 to 18 amend provisions on quality partnership schemes in sections 114 to 123 of the TA 2000. As section 114 stands, before making such a scheme, the local transport authority must be satisfied that it will benefit the users of local bus services by improving the quality of such services, or will reduce or limit traffic congestion, noise or air pollution. These sections extend to England and Wales.

- * A *quality partnership scheme* is a scheme made by a local transport authority under which that authority provides particular facilities at specific locations along the routes used by local bus services, and operators of local services who wish to use those facilities agree to provide services of a particular standard.

Section 13: Quality partnership schemes

69. Section 13 amends section 114 of the TA 2000. Section 114(6)(b) of the TA 2000 currently excludes requirements as to frequency or timing of services from the description of a “standard of service”. The effect of *subsection (5)* is to amend section 114(6)(b) so that such requirements may explicitly be included in a quality partnership scheme. *Subsection (6)* inserts new subsections (6A) and (6B) into section 114. The effect of subsection (6A) is to stipulate that requirements as to maximum fares may be specified in a scheme. Subsection (6B) provides that a scheme may include requirements as to frequencies, timings and maximum fares only if there are no “admissible objections” from relevant bus operators (see also notes on section 18 below). The effect of the amendment in *subsection (7)* (which inserts a new subsection (6C) into section 114) is to enable both facilities and service standards to be phased in on predetermined dates over a period of time, rather than the current procedure under which all facilities and standards must be available when the scheme takes effect.

70. *Subsection (4)* inserts new subsections (3A) to (3D) into section 114 of the TA 2000. The purpose of these provisions is to enable a local transport authority, in appropriate circumstances, to specify in a quality partnership scheme any restrictions which are to be imposed on the registration of certain local services. Such restrictions can be imposed only where the local authority considers that the provision of additional local services in the area of a quality partnership scheme may be detrimental to the provision of services under that scheme. Any scheme which includes restrictions on the registration of local services must also specify the criteria to be used by traffic commissioners when deciding whether or not to accept an application to register a local service. (See also notes on section 48.)

Section 14: Notice and consultation requirements

71. Section 14 amends section 115 of the TA 2000 (notice and consultation requirements) to require any notice which is given about proposals to make a scheme to include details of any proposed restrictions on the registration of local services, and the criteria against which any applications to register such services will be judged (see paragraph 70 above). *Subsection (3)* also amends the description of “relevant local authority” that must be consulted if affected by the scheme, so as to include non-metropolitan as well as metropolitan district councils. This would bring the provision into line with the consultation requirements for quality contracts schemes under section 125 of the TA 2000.

Sections 15 to 17: Provisions relating to phased implementation of schemes

72. These sections make consequential amendments to sections 116 to 118 of the TA 2000 to provide for the phased implementation of quality partnership schemes and the ability to postpone any part of a scheme, not just the whole of it.

Section 18: Regulations about schemes which specify frequencies, timings or fares

73. This section amends section 122 of the TA 2000, which makes provision for regulations about quality partnership schemes. The purpose of the amendments is to enable regulations to make specific provisions in respect of quality partnership schemes that include requirements as to frequencies, timings or maximum fares.

74. *Subsection (2)* inserts a new section 122(1)(aa), which enables regulations to make provision with respect to the “content or operation” of such schemes, in addition to “the procedure to be followed when making, varying or revoking a quality partnership scheme” (which is provided by the existing section 122(1)(a)). This is to allow regulations to cover matters such as those mentioned in new section 122(3), discussed below.

75. *Subsection (3)* inserts new subsections (3) to (6) into section 122. These new subsections provide that, as regards schemes which include requirements as to frequencies, timings or maximum fares, regulations made under section 122(1)(a) and (aa) may in particular make provision for a number of specified matters.

76. The provisions would enable such regulations, for example, to:

- specify certain circumstances (such as *de minimis* conditions) in which requirements as to frequencies, timings or maximum fares, or changes to such requirements, could be included in a scheme without needing to meet the requirements in section 114(6B) about admissible objections (new subsection (3)(a));
- specify that, where schemes include requirements as to frequencies, timings or maximum fares, they must also include provision about how and when such requirements may or must be set, reviewed and revised (new subsection (3)(b), read with subsection (4));
- specify that requirements as to frequencies, timings or maximum fares may be revised only if there are no “admissible objections” from “relevant operators” (new subsection (3)(c));
- disapply the above requirements in prescribed circumstances where a scheme is subject to postponement under section 117 (new subsection (3)(d));
- define the terms “admissible objection” and “relevant operator” for the purposes of section 114(6B) and section 122(3) (new subsection (3)(e) and (f)); and

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- make provision as to the determination of whether an objection is an “admissible objection”, or an operator is a “relevant operator”, within the meaning set out in regulations (new subsection (3)(g)).

77. The effect of new section 122(5) is to ensure that, where requirements as to frequencies, timings or maximum fares are revised in accordance with provision made in accordance with the new section 122(3)(b) described above, the provisions of section 120 of the TA 2000 (variation or revocation of schemes), which include requirements as to notice and consultation, do not apply.

78. New section 122(6) provides that regulations may make provision about the appointment and payment of certain persons in connection with the determination of whether an objection is an “admissible objection” or an operator is a “relevant operator”.

Sections 19 to 45: Quality contracts schemes

79. These sections amend, and insert new provisions in relation to, sections 124 to 134 of the TA 2000, which provide for the making of quality contracts schemes (“QCSs”) in England and Wales. A quality contracts scheme is a scheme under which the local authority determines the local bus network for the area to which the scheme relates. Where such a scheme is in place local bus services in that area can only be provided under quality contracts (with the exception of services specifically excluded from the scheme by virtue of section 127(4) of the TA 2000, or services registered in accordance with new section 6B of the TA 1985 — see notes on section 49). A quality contract is a contract under which the authority grants a particular operator the exclusive right to operate certain services following a competitive tender.

80. One effect of the amendments is to replace the existing requirement that a quality contracts scheme must be the “only practicable way” of implementing the policies in the local authority’s bus strategy with a new set of criteria.

- * Section 110 of the TA 2000 provides that a *bus strategy* must be included within a local transport authority’s local transport plan. Section 10 specifies that a bus strategy is no longer required.

81. The provisions also abolish the requirement for quality contracts schemes in England to be approved by the Secretary of State; instead, they establish a new type of board (“QCS boards”) to provide advice and recommendations to the authority proposing to make the scheme. A separate board is to be assembled for each application. There is a right of appeal to the Transport Tribunal against an English local transport authority’s decision to make a quality contracts scheme. The amendments also include a number of other changes to allow schemes to be implemented in stages, to extend the maximum duration of quality contracts, to enable schemes to be continued beyond their initial period, and generally to allow greater flexibility. New sections are also inserted into the TA 2000 to provide for certain employment protections to apply to workers whose jobs are affected by the implementation of quality contracts schemes, and to allow the authority who made a quality contracts scheme to operate local bus services within the area of that scheme in certain very limited circumstances.

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82. These sections extend to England and Wales, although – as noted below – some provisions apply only in relation to schemes in England.

Section 19: Quality contracts schemes

83. Section 19 amends section 124 of the TA 2000, which has already been amended by section 39 of the Railways Act 2005 (quality contracts schemes in connection with modification of rail services). Those amendments have not been materially affected by the further amendments in this section.

84. The new section 124(1)(a) to (e) (substituted by *subsection (2)*) set out the revised criteria which the local authority must be satisfied are met before making a quality contracts scheme:

- The scheme must increase the use of local bus services, and bring benefits to people using them through the provision of services of a higher quality.

* *Increase*, in this context, is defined in the new section 124(9B), inserted by *subsection (6)*, to include a reference to reducing, arresting or reversing decline in the use of bus services.

- The scheme must contribute to the implementation of the authority’s local transport policies, rather than just those policies set out in their bus strategy (as now). By virtue of section 10, local transport authorities in England and Wales will no longer be required to prepare bus strategies; moreover, not all local transport authorities in England are currently required to prepare local transport plans (or bus strategies), by virtue of the Local Authorities’ Plans and Strategies (Disapplication) (England) Order 2005 (SI 2005/157). However, all local transport authorities (including ITAs) will be required to “develop policies for the promotion and encouragement of safe, integrated, efficient and economic transport to, from and within their area” (section 108(1)(a) of the TA 2000 as amended by section 8). The requirement that a quality contracts scheme must contribute to the implementation of “local transport policies” is therefore applicable in every case. The effect would be to enable a scheme to be made for purposes not limited to matters previously included in the authority’s bus strategy. For example, such purposes might relate to the introduction of a demand management scheme (such as a local charging scheme made under Part 3 of the TA 2000), or to the provision of better integration with rail or light rail services.

* *Local transport policies* are defined in the new section 108(5) of the TA 2000, inserted by section 7.

- The scheme must also (as previously) implement the policies in a way that is economic, efficient and effective.
- Any adverse effects of the scheme on operators must be proportionate generally to the well-being of persons living or working in the area.

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85. The effect of *subsection (3)* is to replace the requirement for proposed schemes in England to be approved by the Secretary of State with a new requirement that, before making a scheme, an authority in England must (among other things) publish a response to the report of the relevant “QCS board” (see below). For schemes in Wales, the requirement to obtain the approval of the Welsh Ministers is retained.

Section 20: Notice and consultation requirements

86. This section amends section 125 of the TA 2000 (notice and consultation requirements). Subsection (1) of section 125 is amended so as to require an authority which is proposing to make a quality contracts scheme to issue a consultation document. The document must include a statement by the authority of the reasons why they are satisfied that the criteria set out in the new section 124(1) will be met, and a statement on funding.

Section 21: Approval of proposed schemes: required for areas in Wales only

87. This section amends section 126 of the TA 2000 (approval of proposed scheme) to remove the requirement for a proposed QCS in England to be approved by the Secretary of State. In Wales, such schemes will continue to be approved by the Welsh Ministers. The amendments made by this section have no effect in respect of the procedure in Wales.

Section 22: Boards for proposed schemes for areas in England

88. This section inserts a new section 126A into the TA 2000, which provides for the constitution of “QCS boards”, whose remit will be to consider proposals submitted by English local transport authorities to make quality contracts schemes. Any such board will be chaired by a traffic commissioner (normally designated by the senior traffic commissioner), with two other members drawn from a panel of persons appointed by the Secretary of State. Wherever appropriate, the commissioner designated to chair the board will be the most appropriate one by reason of any particular knowledge or experience that commissioner may have.

* The post of *senior traffic commissioner* is established by section 3, described above.

Section 23: Advice by boards or their Commissioners

89. This section inserts a new section 126B into the TA 2000, empowering QCS boards to give advice of a procedural nature when requested to do so. If such a request is made before the second and third members of the board have been appointed from the Secretary of State’s panel (see notes on section 22 above), the Commissioner appointed to chair the board is empowered to exercise those powers on behalf of the board. The Secretary of State may also make regulations about the giving of advice under new section 126B, in order to secure propriety in the giving of such advice.

Section 24: Consideration of proposed schemes by boards

90. This section inserts two new sections, 126C and 126D, into the TA 2000.

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91. New section 126C sets out the steps to be taken by an English local authority if, having complied with the notice and consultation requirements in section 125, it wishes to proceed with its proposed scheme. The authority is required to send certain information to the QCS board, including a copy of the proposed scheme, and a request for the board to begin its formal consideration of that scheme.

92. New section 126D sets out the functions to be performed by a QCS board, having received a request under section 126C. The board is to form an opinion on certain matters, and may make recommendations, and is to notify the authority or authorities who submitted the proposal of its opinion, any recommendations, and the board's reasons. The board must also publish a report stating those opinions, recommendations and reasons. The authority may modify its proposals having received the board's opinion and, having done so, may submit a further request to the board under section 126C.

Section 25: Practice and procedure of boards

93. This section inserts a new section 126E into the TA 2000 empowering the Secretary of State to make regulations with respect to the constitution, powers, duties, practices and procedures of QCS boards. Regulations may also prescribe the period within which the Secretary of State considers that a board should normally have published its report. The board is placed under a duty to take reasonable steps to publish its report within that time and, if it is unable to do so, it must prepare and publish a statement of its reasons.

94. The new section 126E also provides for the Secretary of State to issue guidance to QCS boards on the carrying out of their functions, to which boards must have regard.

Section 26: Making of scheme

95. This section amends section 127 of the TA 2000. *Subsection (2)* of section 26 retains the effect of the existing section 127(1) in Wales, so that a scheme in Wales may be made at any time within six months of the date when the proposal is approved by the Welsh Ministers. In relation to England, however, section 127(1) is amended so as to enable a local authority to make a scheme at any time within 6 months of the publication of the QCS board's report, so long as the authority has published its response to that report.

96. The effect of the amendment in *subsection (3)* is to enable different parts of a quality contracts scheme to come into effect on different dates (see also sections 28 and 29). Under the existing provisions in the TA 2000, all parts of the scheme must come into operation on the same date.

97. The amendment made by *subsection (9)* reflects the fact that, in an integrated transport area, it is for the Passenger Transport Executive for that area (not the Integrated Transport Authority) to issue invitations to tender for quality contracts. See section 130 of the TA 2000, as read with section 162(4).

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Section 27: Appeals against the making of schemes for areas in England

98. *Subsection (1)* of this section inserts new sections 127A and 127B into the TA 2000. Section 127A provides that certain persons may appeal to the Transport Tribunal against the decision of an English local transport authority to make a quality contracts scheme. Such an appeal may be on a point of law in all cases. In addition, where the opinion of the QCS Board is that either the conditions in section 124(1) (or, where appropriate, (1A)) of the TA 2000 have not been met, or that the authority has not complied with the statutory notice and consultation requirements, an appeal may also be on a question of fact.

99. Section 127B prescribes the powers of the Transport Tribunal to deal with such appeals. These include the power to dismiss the appeal, remit the matter to the authority with directions, direct the authority to vary the scheme or, where the Tribunal is of the opinion that defects in the scheme cannot be remedied in any other way, to quash the decision of the authority to make the scheme.

100. The amendment made by *subsection (2)* reflects the fact that, in an integrated transport area, it is for the Passenger Transport Executive for that area (not the Integrated Transport Authority) to issue invitations to tender for quality contracts. See section 130 of the TA 2000, as read with section 162(4).

Section 29: Effect of scheme: different operational dates and excepted services

101. This section amends section 129 of the TA 2000 in three respects.

102. First, *subsection (2)* makes changes consequential on the amendment in subsection (3) of section 26, and on the new sections inserted into the TA 2000 by section 40.

103. Secondly, *subsection (3)* amends section 129(2) so as to add further cases in which section 129(1) (which disapplies provisions of the TA 1985 on the registration of local services) does not apply. The circumstances in which such a registration may be accepted by the traffic commissioner are set out in new section 6B of the TA 1985 (as inserted by section 49 below).

104. Thirdly, *subsection (4)* repeals the requirement for tenders to be invited within a particular period after the scheme has been made.

Section 30: Extension of maximum period of quality contracts

105. This section amends section 130 of the TA 2000 so as to extend the maximum duration of a quality contract from five years to ten (which, subject to section 31, is also the maximum duration of the scheme itself). Ten years is also the limit of duration specified for public service contracts for coach and bus services prescribed by article 4.3 of the Regulation of the European Parliament and of the Council on public passenger transport services by rail and by road and repealing Council Regulations (EEC) Nos 1191/69 and 1107/70 (O.J. L315 3.12.2007 p.1).

* A *quality contracts scheme* may include one or more individual *quality contracts*.

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which received Royal Assent on 26 November 2008*

Section 31: Continuation of schemes for further periods

106. This section inserts a new section 131A into the TA 2000 setting out the procedure that must be followed if an authority wants a quality contracts scheme to continue, with or without modification, beyond the initial period of not more than ten years. Under the existing legislation, it is not possible to continue a scheme, and a new scheme must be made instead.

107. Unless the proposal is an exempt continuation proposal (see section 32), an authority in Wales must secure the approval of the Welsh Ministers before a scheme may continue in operation beyond its initial period, while an authority in England must have published its response to the report issued by the QCS board in relation to the proposed continuation. The notice and continuation requirements of section 125 are to apply to the proposed continuation of a scheme (whether or not it is an exempt continuation proposal), but with the modifications set out in subsections (3), (4) and (5) of section 131A.

Section 32: Exempt continuation proposals

108. Section 32 inserts a new section 131B into the TA 2000, the effect of which is to provide that certain proposals to continue a scheme are to be “exempt continuation proposals”. Such proposals are not subject to the requirement to be approved by the Welsh Ministers (in Wales) or to be considered by a QCS board (in England).

Section 33: Continuation of schemes for areas in England: procedure

109. This section inserts a new section 131C into the TA 2000, setting out the procedures to be followed where an authority wishes for a scheme in England to continue in operation beyond its initial period. Earlier sections of the TA 2000 are applied with modifications, depending on whether or not the proposal to continue the scheme is an exempt continuation proposal.

Section 34: Continuation of schemes for areas in Wales: procedure

110. This section inserts a new section 131D into the TA 2000, setting out the procedure to be followed where an authority in Wales wishes for a scheme to continue in operation beyond its initial period. Earlier sections of the TA 2000 are applied with modifications, depending on whether or not the proposal to continue the scheme is an exempt continuation proposal. The arrangements in Wales (section 131D) differ from those in England (section 131C), in particular as a consequence of the differing functions performed by the Welsh Ministers (in Wales) and by QCS boards (in England).

Section 35: Appeals where proposed continuation considered exempt

111. This section inserts a new section 131E into the TA 2000. It provides a right of appeal to the Transport Tribunal against a decision by a local transport authority that a proposal to continue a scheme in operation was an exempt continuation proposal, or against a decision to proceed with a proposal that it considered (rightly or wrongly) to be exempt. Section 131E provides that such an appeal may be made on a point of law or a question of fact, and sets out the powers of the Tribunal on such an appeal.

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Section 36: Appeals where proposed continuation in England considered non-exempt

112. This section inserts a new section 131F into the TA 2000. It provides for appeals against a decision by an English local authority that a scheme is to continue in operation. Whereas section 131E (inserted by section 35) provides a right of appeal in cases where the authority proceeded on the basis that a proposal was an exempt continuation proposal, section 131F deals with other cases in England (i.e. cases where the authority is required to consult a QCS board and publish a response to that board's report).

Section 37: Variation or revocation of scheme

113. This section amends section 132 of the TA 2000, which sets out a procedure for varying or revoking a quality contracts scheme. The amendments make provision for certain variations ("exempt variations") to be exempt from the requirement to be approved by the Welsh Ministers (in Wales) or the requirements relating to QCS boards (in England). They provide for an additional situation in which an authority may revoke a scheme. The amended section 132 also sets out revised procedures to be followed where an authority wishes to vary or revoke a quality contracts scheme.

114. The procedures for variation mirror those applying for the making and continuation of a scheme, but with certain modifications.

115. In England, the amendments also provide that an authority may revoke a scheme without the need for approval, or for consultation with a QCS board.

Section 38: Appeals where proposed variation considered exempt

116. This section inserts a new section 132A into the TA 2000 to provide a procedure to appeal to the Transport Tribunal against a scheme variation where the authority has decided to vary a scheme, and has done so on the basis that the variation was an exempt one. That is to say, it has neither sought the approval of the Welsh Ministers (in Wales) nor responded to a report from a QCS board (in England).

117. Such an appeal may be on a point of law or a question of fact, and section 132A sets out the powers of the Tribunal on such an appeal.

Section 39: Exemption from section 132 for specific variations directed by Transport Tribunal

118. This section inserts a new section 132B into the TA 2000. Its effect is that where an appeal is made to the Transport Tribunal under certain preceding sections of Part 2 of the TA 2000, and the Tribunal direct the authority to vary the scheme in a specified manner, the authority is not required to follow the procedures (e.g. as regards notice and consultation, approval or submitting the proposals to a QCS board and responding to its report) that would normally apply to a scheme variation.

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Section 40: Power of authorities to provide services in exceptional circumstances

119. This section inserts two new sections, 132C and 132D, into the TA 2000. The effect of those sections is to provide a power for a local transport authority to operate local bus services (“interim services”) where an operator of services under a quality contract has ceased to provide those services before the contract was due to terminate.

120. Subsection (2) of new section 132C provides the power. Subsection (3) provides that this power is available to authorities regardless of contrary provisions contained in other enactments, while subsection (4) provides that an authority providing an interim service must hold a valid public service vehicle operator’s licence.

121. Subsections (5) to (7) of the new section set out some limitations on the new power. Their effect is to require authorities providing an interim service to invite tenders for the provision of those services within a prescribed time limit, except where the authority decides to proceed under section 131 of the TA 2000 (which specifies certain circumstances in which an authority may make a quality contract without having first invited tenders).

122. The new section 132D limits to nine months the period for which an interim service may be provided and, in certain circumstances, empowers the traffic commissioner to grant an extension of up to three months if requested by the local authority.

123. The effect of *subsection (2)* of the new section is that the power to provide interim services in an integrated transport area is conferred on the Passenger Transport Executive rather than the Integrated Transport Authority. *Subsection (3)* makes a consequential amendment to the TA 1985.

124. The new sections 132C and 132D to be inserted into the TA 2000 are to extend to England and Wales.

Section 41: Regulations about schemes

125. This section amends section 133 of the TA 2000, a provision which enables regulations to be made on various matters relating to quality contracts schemes. The additional provisions will enable regulations to be made about the continuation of schemes, and matters relating to QCS boards. *Subsection (6)* provides a power to make regulations modifying or excluding the application of provisions of Part 2 of the TA 2000, so far as relating to quality contracts schemes, in certain circumstances.

126. No regulations have been made to date under section 133 of the TA 2000.

Section 42: Power to make transitional provision about schemes

127. This section amends section 134 of the TA 2000, which enables regulations to be made concerning transitional provision in connection with the coming into operation of quality contracts schemes, or the variation or ending of such schemes. The most significant amendment is that which will enable transitional provisions to modify the effect of sections 89 to 92 of the TA 1985 (obligation to invite tenders for subsidised services other than quality contracts). The amendments also clarify that any transitional provision concerning the

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coming into effect of a scheme can only have effect from the date on which a scheme has been made, and that transitional provision may be made additionally in connection with the continuation of quality contracts schemes.

Section 43: Guidance about schemes

128. This section inserts a new section 134A into the TA 2000 making provision for the appropriate national authority in England and Wales to issue guidance about the performance by local transport authorities of their functions in respect of quality contracts schemes. Local authorities are required to have regard to any such guidance in the exercise of those functions.

* The *appropriate national authority* is the Secretary of State (in England) or the Welsh Ministers (in Wales).

Section 44: Quality contracts: application of TUPE

129. This section inserts a new section 134B into the TA 2000. Subsection (3) of section 134B provides that two situations, described in subsections (1) and (2) of that new section, shall be regarded as “relevant transfers” for the purposes of the Transfer of Undertakings (Protection of Employment) Regulations 2006 (“the TUPE Regulations”). Subsection (5) of that section provides that sections 257 and 258 of the Pensions Act 2004, and any regulations made under those provisions, apply to a relevant transfer that takes place by virtue of section 134B in the same way as they do to a relevant transfer within the meaning of the TUPE Regulations.

130. Inserted section 134B also provides that the Secretary of State may make provision in regulations about how such transfers are to operate and the procedures to be followed, including provision requiring existing operators who will be affected by the scheme to supply the necessary information about relevant employees. There are provisions for administrative sanctions against operators who fail to supply that information. A new criminal offence of knowingly or recklessly supplying false or misleading information in response to a requirement imposed on an existing operator by virtue of this section is also created.

131. The Secretary of State is also empowered to make regulations to secure “pension protection” for “transferring employees”, as defined in subsection (8) of section 134B. Subsection (9) requires the Secretary of State to exercise that power to make regulations containing specified protection for “transferring original employees”, but this obligation does not preclude the Secretary of State from making regulations to secure additional protections.

Section 45: Power to make traffic regulation orders

132. This section inserts a new subsection (3B) into section 1 of the Road Traffic Regulation Act 1984. Subsection (3A) of that section enables a local traffic authority in England and Wales to make a traffic regulation order (under that section) in respect of a road for which the Secretary of State is, or the Welsh Ministers are, the traffic authority, with their consent, if that order is required to provide facilities under a quality partnership scheme. The effect of the amendment is to extend this power to traffic regulation orders providing facilities pursuant to a quality contracts scheme.

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which received Royal Assent on 26 November 2008*

- * A *traffic regulation order* is an order made by a traffic authority to regulate use of a road. It may be made to avoid danger to road users, to prevent damage to the road, to prevent or facilitate the use of the road by certain classes of road user, to preserve amenities, or for environmental reasons.

Section 46: Competition scrutiny of functions and agreements relating to buses

133. This section substitutes a new section for section 153 of the TA 2000. Section 153 introduces Schedule 10 to that Act, which applies a competition test to the exercise of functions by a local transport authority relating to quality partnership schemes, ticketing schemes and subsidised local services. The effect of the amendment is to apply a separate competition test and enforcement regime to voluntary partnership agreements (as defined in the substituted section 153) and certain other bus-related agreements, in place of provisions in Chapter 1 of the Competition Act 1998. *Subsection (3)* provides for the amendment of Schedule 10 to the TA 2000 by Schedule 2 to the Act.

134. *Schedule 2* amends existing provisions in Schedule 10 to the TA 2000, and also inserts additional paragraphs which will form a new Part 2 of that Schedule. The amendments to what is now Part 1 of Schedule 10 include a repeal of the provisions under which an application may be made to the Office of Fair Trading for a decision as to whether the exercise of certain local authority functions meets the competition test.

135. Part 2 applies a modified form of the competition test in the Competition Act 1998 to voluntary partnership agreements, and to certain other agreements, where the object or effect of those agreements is the restriction, prevention or distortion of competition in the market for provision of bus services.

136. The agreements to which the test will apply are:

- agreements between the local authority and more than one operator (“voluntary multilateral agreements”);
- agreements between the local authority and one operator (“voluntary bilateral agreements”) if, when taken together with one or more other such agreements, they would have an effect on competition; and
- agreements between bus undertakings, decisions by associations of bus undertakings or concerted practices by bus undertakings, where the agreement, decision or practice in question has been certified by a local transport authority in accordance with paragraph 18(4) of the amended Schedule 10.

137. Paragraph 19 of the amended Schedule 10 provides that price-fixing agreements cannot be subject to the provisions in Part 2 of Schedule 10; such agreements would instead continue to fall to be considered within the provisions of the Competition Act 1998.

138. The Schedule provides that where an agreement is subject to this competition test, the prohibition in Chapter 1 of the Competition Act 1998 on agreements, decisions or concerted practices that would prevent, restrict or distort competition does not apply. The modified competition test applies in place of the provisions of the 1998 Act. The Schedule also applies

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investigation and enforcement powers of the OFT as set out in the Competition Act 1998, with the exception of the power to impose financial penalties, to relevant agreements which do not meet the competition test in Part 2 of this Schedule. The provision includes power for the Secretary of State to modify the application of relevant investigation and enforcement powers in the Competition Act 1998 in respect of agreements subject to this revised competition test. That power could not, however, be used to empower the OFT to impose financial penalties.

139. This section extends to England and Wales.

Part 4: General provisions relating to passenger transport

Section 47: Detention of certain PSVs used without PSV operators' licences

140. Schedule 1A to the Goods Vehicles (Licensing of Operators) Act 1995 enables regulations to be made permitting an authorised person to detain a goods vehicle and its contents in circumstances where the person using that vehicle did so in contravention of the requirement to have an operator's licence for that or any other vehicle. The Goods Vehicles (Enforcement Powers) Regulations 2001 came into force on 4 January 2002.

141. *Subsection (1)* makes a corresponding provision for the unauthorised use of passenger vehicles adapted to carry more than eight passengers as public service vehicles ("PSVs"). It inserts a new section 12A into the PPVA 1981, which gives effect to a new Schedule 2A to that Act (inserted by *subsection (2)*). The content of new Schedule 2A to the PPVA 1981 is contained in Schedule 3 to the Act. The purpose of new Schedule 2A is to empower the Secretary of State to make regulations to facilitate the detention of certain PSVs used in contravention of the requirement to hold a valid PSV operator's licence. These provisions are based on the ones which already apply to goods vehicles, as described above.

142. This section and the Schedule extend to Great Britain.

Sections 48 to 51: Registration of local services

143. These sections amend provisions in the TA 1985 relating to the registration of local services (as defined in section 2 of that Act) and the determination of traffic regulation conditions. They extend to England and Wales.

Section 48: Determination of applications for registration where restrictions in force

144. Section 48 amends section 6 of the TA 1985 (registration of local services) to give effect to new section 6A of that Act which it inserts. That section makes provision in respect of applications to register local services in areas where a quality partnership scheme has been made, and that scheme includes restrictions on the registration of local services (see the note in respect of sections 13 and 14 in paragraphs 69ff. above).

145. The new section 6A prescribes the procedure to be followed when such an application is received. The traffic commissioner is required to give notice of the application to relevant local authorities and operators. Where authorities or operators make representations in response to that notice the traffic commissioner must decide, after following the prescribed

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procedure, whether the effect of accepting the application would be detrimental to the quality partnership scheme. In so doing, he must apply the registration criteria contained in the scheme. Where the traffic commissioner decides that such a registration would be detrimental, he may refuse the application, require the applicant to amend it or, where the applicant has not already done so, require the applicant to give an undertaking under section 118(4) of the TA 2000 (effect of scheme) that he will provide services in accordance with standards specified in the scheme. The provisions provide a right of appeal to the Transport Tribunal against the decision of the traffic commissioner.

Section 49: Applications for registration where quality contracts scheme in force

146. This section amends section 6 of the TA 1985 (registration of local services) to give effect to new section 6B of that Act which it inserts. That new section provides for the registration of services within the area of a quality contracts scheme in certain circumstances, as an exception to the general rule (contained in section 129(1)(a) of the TA 2000) that such services cannot be registered in those areas.

147. New section 6B provides that where an operator wishes to provide, in the area of a quality contracts scheme, a service otherwise than under a quality contract he may apply to register that service with the traffic commissioner. The traffic commissioner on receiving the application must consult the authority or authorities that made the quality contracts scheme. The traffic commissioner may not accept the registration unless, within a prescribed time, the authority certifies that the provision of the proposed service will not have an adverse effect on the services provided under quality contracts. A similar procedure is to operate in relation to an application to vary an existing registration of a service provided otherwise than under a quality contract.

Section 50: Traffic regulation conditions for anticipated traffic problems

148. Section 50 amends section 7 of the TA 1985 (application of traffic regulation conditions to local services subject to registration under section 6). Under the existing legislation a traffic commissioner can impose traffic regulation conditions on the providers of local services when asked to do so by the traffic authority in relation to a particular traffic problem. Such conditions can be imposed only where the traffic commissioner is satisfied that they are necessary in order to prevent danger to road users, reduce severe traffic congestion, or to reduce or limit noise or air pollution.

149. The effect of the amendment is to extend the circumstances in which a traffic authority may ask the traffic commissioner to exercise those powers to situations where that authority reasonably foresees that a traffic problem is likely to arise.

Section 51: Transport Tribunal to decide appeals against traffic regulation conditions

150. This section amends section 9 of the TA 1985, which provides for a right of appeal against actions by a traffic commissioner in determining, or refusing to determine, traffic regulation conditions under section 7 of the TA 1985. The appeal currently lies to the Secretary of State and the effect of this amendment is to transfer it to the Transport Tribunal.

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This is consistent with the appeal process in respect of other decisions of traffic commissioners. The provisions in Schedule 4 to the TA 1985 (constitution, powers and proceedings of the Transport Tribunal) will apply to such appeals, including the right of appeal against a decision of the Transport Tribunal to the Court of Appeal on a point of law.

Section 52: Fees for registration of services

151. Section 126 of the TA 1985 contains a power for the Secretary of State to prescribe fees to be paid by bus operators in connection with the registration of local bus services. Section 52 extends the scope of that power. Currently the Secretary of State may prescribe fees chargeable by the traffic commissioners for applications to register a local service, and to vary such registrations. This section, in addition, enables fees to be prescribed for the cancellation of a particular registered service, and for the continuation in force of registrations.

152. Section 52 extends to England and Wales. The power to make regulations to prescribe the new fees will be exercisable by the Secretary of State.

Section 53: Use of private hire vehicles to provide local services

153. This section amends section 12 of the TA 1985, which currently enables holders of a taxi licence to apply to the traffic commissioner for a restricted Public Service Vehicle (“PSV”) operator’s licence – referred to as a “special licence”. A special licence entitles the operator to use taxis to provide local bus services – which have to be registered with the traffic commissioner. The effect of the amendment is to enable the holders of private hire vehicle (“PHV”) licences similarly to apply for a special licence in order to use PHVs to provide local bus services – which also have to be registered with the traffic commissioner. The amendment allows PHVs operating in this way to pick up passengers at bus stops as provided for in the route registration, rather than having to be pre-booked through an operator.

154. Section 53 extends to Great Britain. However it will apply (i.e. have effect) in London only if Transport for London (“TfL”) makes a decision that it should do so and makes an order under new section 13A (inserted by section 54).

* A *taxi licence* is a licence granted under section 6 of the Metropolitan Public Carriage Act 1869 (in London), or section 37 of the Town Police Clauses Act 1847 (in the rest of England and Wales), or section 10 of the Civic Government (Scotland) Act 1982 (in Scotland). The driver can accept immediate hirings by standing at ranks or by being hailed in the street; pre-bookings can also be arranged.

* A *private hire vehicle licence* is a licence granted under section 7 of the Private Hire Vehicles (London) Act 1998, or section 48 of the Local Government (Miscellaneous Provisions) Act 1976 (in the rest of England and Wales), or section 10 of the Civic Government (Scotland) Act 1982 (in Scotland). Private hire vehicles must be pre-booked.

Section 54: Application of certain provisions about taxis and hire cars to London

155. This section amends section 13 of the TA 1985 (provisions supplementary to sections 10 to 12) and inserts a new section 13A (application of sections 10 to 13 to London). This allows for differentiation between the section 12 provision as it applies in London and as it applies in the rest of Great Britain.

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156. Section 13 of the TA 1985 is amended to include a definition of “appropriate authority”. This is to identify TfL as being responsible in London for making regulations under section 12 of the TA 1985 and amending the codes in respect of both taxis and PHVs for the purposes of sections 10 to 13 of the TA 1985, and the Secretary of State as being responsible for the same elsewhere in Great Britain.

157. Section 13A contains a power for TfL to, by order, apply section 12 of the TA 1985 to PHVs in London should it so wish.

158. *Subsections (1) to (7)* of this section extend to Great Britain (although sections 10 and 11 of the TA 1985, which are referred to, do not extend to Scotland).

Sections 55 and 56: Carrying of passengers in wheelchairs

159. These two sections amend the Disability Discrimination Act 1995 (“the DDA 1995”). Section 36 of that Act imposes certain duties which relate to the carrying of disabled persons who are in wheelchairs. The duties apply to any driver of a “regulated taxi” who does not hold a valid exemption certificate issued by the relevant taxi licensing authority. The term “regulated taxi” in this section carries the meaning given to it in regulations made under section 32 of the DDA 1995. No regulations have been made under section 32, and sections 32 to 36 have not been brought into force.

160. Section 55 amends section 36 of the DDA 1995 so as to apply the duties to the drivers of “designated vehicles” that are being used to provide a local service within the meaning of section 2 of the TA 1985. It also makes provision for licensing authorities to exempt drivers on medical or physical grounds. “Designated vehicles” are defined as vehicles appearing on a list maintained by a licensing authority under the new section 36A of the DDA 1995, inserted by *subsection (2)* of section 56. Only vehicles meeting the conditions set out in *subsection (2)* of new section 36A may be included in such a list. These conditions include that the vehicle must be either a taxi or a PHV.

161. *Subsections (3) to (7)* of section 56 amend section 38 of the DDA 1995, so as to provide a right of appeal against the decision of a licensing authority to include a vehicle on such a list. *Subsection (8)* amends section 68(1) of that Act (interpretation), to provide that (for the purposes of sections 36, 36A and 38) the phrase “licensing authority” is to carry the meaning given in section 36A(6).

162. Section 70(3) of the DDA 1995 (commencement) provided for most provisions of that Act to come into force on a date or dates to be appointed by the Secretary of State. *Subsection (9)* of section 56 inserts a new *subsection (2A)*, which provides that section 36 as it applies to designated vehicles, section 36A and section 38 as it extends to Scotland (section 38 is already in force in England and Wales) will instead come into force two months after the Local Transport Act 2008 receives Royal Assent. (This reflects the provision made by virtue of section 132 of the Act.)

163. The provisions of sections 55 and 56 extend to Great Britain.

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Sections 57 to 61: Vehicles used under permits

164. These sections amend sections 19 to 23 of the TA 1985, which enable certain voluntary bodies to operate public service vehicles without a PSV operator's licence (which would otherwise be required under section 12 of the PPVA 1981).

165. Section 19 of the TA 1985 enables permits to be granted to educational, religious, social welfare and other bodies. The effect of a permit is that the body does not need a PSV operator's licence to operate passenger-carrying services for members of the body. Members of the general public may not be carried on such services. Section 22 of the same Act enables permits to be granted, under certain conditions, for the provision of local services for the general public.

166. Permits for "small buses" (as defined in section 19(1) of the TA 1985) may be granted either by the traffic commissioners or by bodies designated by order under section 19(7) of that Act. Bodies so designated include local authorities and a number of national non-Governmental organisations.

167. These sections extend to Great Britain.

Sections 57 and 58: Permits in relation to use of vehicles by educational and other bodies

168. The effect of section 57 is to remove the current restriction which prevents the use of PSVs with fewer than nine seats under a permit issued under section 19 of the TA 1985. It also makes a small change to the order-making power for designated bodies so that an order may require them to keep records of permits as well as make returns. Section 58 makes consequential changes to sections 20 and 21 of the TA 1985.

Section 59: Relaxation of rules relating to community bus services

169. This section amends sections 22 and 23 of the TA 1985. The effect of *subsections (1) and (2)* is to enable large buses (defined as those capable of carrying in excess of 16 passengers) to be used to provide community transport services. The effect of *subsections (3) and (4)* is to remove the current prohibition on the drivers of such services from being paid.

Section 60: Power to limit permits under section 19 or 22 of TA 1985 to 5 years

170. Under the TA 1985, permits granted under section 19 or 22 remain in force indefinitely until surrendered or revoked. The effect of *subsection (1)* (which inserts a new section 23A into the TA 1985) is to enable a date to be specified in regulations after which all such permits will be granted for a specified period, not exceeding 5 years. *Subsection (2)* enables regulations to provide for all permits granted before that date, and which were therefore issued on an indefinite basis, to be revoked. Holders of such permits would be able to apply for new time-limited permits to replace those revoked.

Section 61: Traffic commissioners to keep records about such permits

171. This section amends section 126 of the TA 1985 (application of sections 52 and 56 (records of licences) of the PPVA 1981) to require traffic commissioners to keep records both of permits granted by them and copies of permits submitted to them by designated bodies. It

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amends provisions already requiring them to keep records of other documents issued under the TA 1985.

Sections 62 to 65: Services not operated as registered etc.

172. The effect of these sections is to strengthen the enforcement powers of the traffic commissioners with particular reference to punctuality of registered local bus services. These sections extend to England and Wales.

Section 62: Attachment of conditions to related licences

173. This section amends section 26 of the TA 1985 (conditions attached to PSV operator's licence) which empowers a traffic commissioner to attach conditions to the licences of operators who engage in certain conduct, such as failing to comply with particular requirements applying to local bus services or failing to take the necessary steps to maintain their vehicles in a fit and serviceable condition. Such conditions may prohibit the operator from using vehicles to provide specified local services, or prevent him from providing any local services.

- * The *requirements applying to local bus services* (outside London) include that a local service has been registered under section 6 of the TA 1985, that the registered particulars (including the route and timetable) have been complied with and that, where applicable, the standards required under a quality partnership scheme have been complied with.

174. The amendments in *subsections (1) to (6)* of section 62 would enable a traffic commissioner to attach such conditions to any other licence held by that operator (by directing the traffic commissioner for the traffic area in which that licence is held to do so), or to the licence of another operator that is connected with the operator in default (for example, a subsidiary of the same holding company). A traffic commissioner who is given a direction by another commissioner must attach the condition unless he considers there is a good reason not to do so. The amendments also enable a condition to be attached either indefinitely or for a specified period of time.

175. *Subsections (7) to (9)* amend subsections (5) and (6) of section 26 of the TA 1985, which allow a traffic commissioner to attach a condition to a licence to restrict the vehicles which a PSV operator may use under that licence to particular vehicles specified in a condition. This provision may be used where the commissioner is of the view that vehicles have not been maintained in a fit and serviceable condition, and applies to PSV operators generally, not just to operators of local services. These amendments also enable such conditions to be attached to licences held in other traffic areas by the same operator and to licences of other subsidiary companies.

Section 63: Powers of traffic commissioners where services not operated as registered

176. This section introduces a new power to enable a traffic commissioner, when investigating the poor performance of a bus operator, also to investigate and take into account the effect of action taken, or not taken, by the local authority on bus punctuality, and to make recommendations to try to improve punctuality.

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177. The section inserts new sections 27A and 27B into the TA 1985 to give new powers to the traffic commissioners to investigate poor punctuality. In particular a commissioner may require a local traffic authority to provide any specified information connected with any aspect of their network management duty under Part 2 of the Traffic Management Act 2004 and to attend any inquiry into an operator's performance. (Section 27 of the TA 1985 requires the traffic commissioner to hold an inquiry, if so requested by the operator, before attaching any conditions to the operator's licence under section 26 of that Act.) The commissioner may prepare a report recommending such remedial measures (for implementation by either operators or the local traffic authority) as he considers necessary to improve performance. The new section 27A(6) places an obligation on the traffic commissioner to send a copy of the report to the operator and, in certain circumstances, to the local authority or Integrated Transport Authority. It also enables him to send the report to relevant persons and authorities (in particular the appropriate national authority) and, if he sees fit, to publish the report.

* The *appropriate national authority* is the Secretary of State (in England) or the Welsh Ministers (in Wales).

Section 64: Additional sanctions for failures by bus operators

178. This section amends section 155 of the TA 2000, which enables the traffic commissioner to impose financial penalties on operators who fail to operate local services satisfactorily. The amendments would empower the traffic commissioner, either as an alternative or in addition to a fine, to make an order requiring the operator to spend a specified sum of money on providing, or making specified improvements to, specified local services or facilities, or requiring the operator to compensate the passengers on such services. Compensation could take the form of free or reduced price travel for a period of time. There is a provision for further sanctions to be prescribed by regulations, and such regulations would be made by statutory instrument subject to affirmative resolution by both Houses of Parliament (or, as respects Wales, by the National Assembly for Wales).

Section 65: Operational data

179. This section amends section 155 of the TA 2000 to enable a traffic commissioner to impose sanctions for a failure to comply with requirements about the provision of information in accordance with regulations made under section 6 of the TA 1985. *Subsections (3) and (4)* amend the regulation-making powers in section 6 of the TA 1985 (registration of local services) so that regulations requiring operators to keep records or provide information may impose restrictions to prevent the misuse of such records or information. The regulations may make failure to observe the restrictions a criminal offence with a maximum penalty not exceeding level 4 on the standard scale.

Section 66: Revival of certain powers of PTEs

180. This section amends section 10(1) of the TA 1968, which specifies the powers of PTEs. The section originally included powers for PTEs to carry passengers by road (paragraph (i)) and to let passenger vehicles on hire (paragraph (viii)). These two powers were disapplied (along with section 24(2) of the TA 1968) by orders made under section 60(5) of the TA 1985.

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181. Section 66 would revive the power in an amended paragraph (viii) for the specific purpose of enabling PTEs to purchase buses to hire out to operators who provide local services by contract, either in pursuance of section 9A of the TA 1968 (see note on section 67 below) or under a quality contract. It would also enable a PTE to hire out vehicles to a community transport body holding a permit under section 19 of the TA 1985 (permits in relation to the use of vehicles by educational and other bodies). Section 66 revokes the existing orders so far as they disapply paragraph (viii) of section 10(1) of the TA 1968. It also repeals paragraph (i) of section 10(1) of the TA 1968, section 24 of the TA 1968 and provisions in section 60 of the TA 1985 which are now spent.

182. This section extends to England and Wales, but since there are no passenger transport areas in Wales, it has no effect there.

Section 67: Subsidy to secure passenger transport services in integrated transport areas

183. This section amends section 9A of the TA 1968, which sets out the general functions of Passenger Transport Authorities (to be renamed “Integrated Transport Authorities” by the Act) and Passenger Transport Executives (“PTEs”). Section 9A(4) empowers a PTE to enter into agreements in order to secure the provision of passenger transport services where the service would not otherwise be provided. The effect of this section is to empower a PTE to enter into such agreements also in cases where the service would not otherwise be provided “to a particular standard”. *Subsection (3)* provides that the term “standard” includes the frequency or timing of the service, the days or times of day when the service may be provided, and the vehicles used to provide the service.

184. This section extends to England and Wales, but since there are no passenger transport areas in Wales, it has no effect there.

Section 68: Subsidy to secure passenger transport services in other areas

185. This section amends section 63 of the TA 1985 to empower authorities other than PTEs in the way described above under section 67. It extends to England and Wales.

Section 69: Subsidy to secure passenger transport services in Wales

186. This section amends section 7 of the Transport (Wales) Act 2006, which enables the Welsh Ministers to secure the provision of any public passenger transport service which they consider appropriate for the purpose of meeting any public transport requirements within Wales which would not otherwise be met. It empowers the Welsh Ministers in the way described under section 67 above.

Section 70: Extension of maximum length of subsidised services agreements

187. This section amends section 90(1) of the TA 1985 to increase the maximum length of a service subsidy agreement which is made in accordance with section 89 of that Act from five to eight years. It extends to England and Wales.

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Section 71: Removal of certain disabilities and requirements for consent

188. This section repeals various provisions in Part 4 of the TA 1985 which relate to public transport companies and their directors.

* A *public transport company* is defined in section 72 of the TA 1985.

189. *Subsection (2)* repeals the provisions in section 74 of the TA 1985 which require a director of a public transport company who is a councillor of the authority that owns the company to obtain dispensation from the Secretary of State (in England) or Welsh Ministers (in Wales) in order to take part in, or vote on, matters relating to the activities of the company.

190. *Subsection (3)* repeals sections 75(3), 79(3) and 79(7), and some words in section 79(8), of the TA 1985 so as to remove the requirement for local authorities to seek consent of the Secretary of State before exercising the powers contained within these sections. These are powers to dispose of public transport companies owned by the authorities, or shares or significant assets of the companies, as well as the power to provide financial backing for the establishment and operations of public transport companies.

191. The repeal of these requirements extends to England and Wales.

Section 72: The Disabled Persons Transport Advisory Committee: remuneration

192. The Disabled Persons Transport Advisory Committee (“DPTAC”) was established under section 125 of the TA 1985 to consider any matter relating to the needs of disabled persons in connection with public passenger transport and to give advice to the Secretary of State on such matters where appropriate.

193. The original terms of the TA 1985 restricted payments to DPTAC members to travelling and other allowances and payments to defray other expenses incurred in connection with DPTAC functions.

194. *Subsection (2)* of section 72 amends paragraph 2 of Schedule 5 to the TA 1985 to enable the Secretary of State to provide DPTAC with funds to remunerate its members for carrying out Committee work.

195. DPTAC is a cross-border public authority within the meaning of section 88(5) of the Scotland Act 1998. *Subsection (3)* of section 72 ensures that DPTAC members are not remunerated for performing functions relating to devolved matters.

Section 73: The Public Transport Users’ Committee for England

196. This section inserts three new sections into the TA 1985. The new provisions are inserted after section 125 of that Act, which already provides for the establishment of the Disabled Persons Transport Advisory Committee.

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197. New section 125A empowers the Secretary of State by order to establish a body to be known as the Public Transport Users' Committee for England. Section 125A(3) provides that the order may make provision about the status and membership of the Committee and prescribe other details about its proceedings and conduct of business.

198. New section 125B sets out the functions of the Committee. In particular it provides that the Committee may consider and make recommendations or representations to the Secretary of State about any matter relating to such public passenger transport services or facilities in England as may be prescribed by the Secretary of State. This will enable the Secretary of State to determine the scope of the powers of the Committee by prescribing the services and facilities, or the description of services and facilities, in relation to which the Committee is to exercise its functions.

199. If, under new section 125B(3), the Secretary of State has conferred powers on the Committee to make recommendations or representations to certain people or bodies, such as bus operators, local authorities, and traffic commissioners, new section 125C would enable the Secretary of State, by order, to confer functions on those persons in respect of such recommendations or representations. The power could, for example, be used to provide that where the Committee makes representations to a particular person, that person must consider those representations and send a written response to the Committee.

200. Orders made under these new sections are subject to the affirmative resolution procedure. Following the close of the consultation on strengthening bus passenger representation, the Secretary of State announced on 8 April 2008 that, subject to further consultation, the remit of the Rail Passengers' Council (Passenger Focus) would be widened to take on the role of the bus passenger representative body. Therefore there are no immediate plans to establish a Public Transport Users' Committee for England.

Section 74: Power to confer non-rail functions on the Rail Passengers' Council

201. This section inserts a new section 19A into the Railways Act 2005. Section 19A(1) empowers the Secretary of State by order to confer functions on the Rail Passengers' Council relating to local bus services, domestic coach services and tramway passenger services to the extent that they operate in England, and relating to passenger transport facilities in England. Subsection (2) enables such amendments to be made to provisions of the Railways Act 2005 and any other Act as may be needed as a consequence of making such provision. Subsection (4)(b) empowers the Secretary of State to alter the number of members which can be appointed by the Secretary of State to the Rail Passengers' Council so as to enable members to be appointed to represent bus and coach passengers. This will not affect members appointed by the Scottish Ministers, the Welsh Ministers or the London Assembly.

202. Subsections (5) and (6) make provision corresponding to that made in relation to the Public Transport Users' Committee for England by inserted section 125C of the TA 1985. Those subsections provide that, where a function of making representations or recommendations to a body or person has been conferred on the Rail Passengers' Council, the relevant order may also place an obligation on that body or person to respond to such representations or recommendations in a specified manner, so long as that new obligation

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relates to local services, domestic coach services or tramway services operating in England, and passenger transport facilities in England.

203. Subsection (7) provides that the power does not extend to altering the functions of the Rail Passengers' Council so far as they relate to the provision of railway passenger services or station services.

204. Orders made under the new section are subject to the affirmative resolution procedure.

Section 75: Power to require display of certain information

205. This section empowers the appropriate national authority (the Secretary of State in relation to England and the Welsh Ministers in relation to Wales) to make regulations imposing obligations on prescribed persons to display certain information relating to public transport. The information could, for example, relate to the Rail Passengers' Council, the Bus Appeals Body (a non-statutory body), the customer complaints manager of the transport operator concerned, or travel information services like Traveline or Transport Direct. Any regulations would be subject to the negative resolution procedure.

206. This section also enables the appropriate national authority to empower traffic commissioners to impose financial penalties on any operator of a public service vehicle (which could include buses providing local services or long-distance coach services) who does not comply with regulations made under this section. The regulations would specify the maximum penalty that may be imposed. Operators would have a right of appeal to the Transport Tribunal against any decision by a traffic commissioner to impose a financial penalty.

Section 76: Appeals to the Transport Tribunal

207. This section amends Schedule 4 to the TA 1985, which prescribes the constitution, powers and proceedings of the Transport Tribunal. Paragraph 9 of that Schedule sets out the Tribunal's powers in relation to appeals against various decisions of the traffic commissioners. The Tribunal, when hearing an appeal against any determination of a traffic commissioner, has the power to make any order they think fit, or where appropriate to remit a matter to the traffic commissioner for a rehearing.

208. Section 76 amends paragraph 9 so that these powers apply in relation to appeals under section 75 of this Act, and also to appeals under section 155 of the TA 2000. Section 155 empowers traffic commissioners to impose financial penalties on bus operators in certain circumstances and is amended by section 64 of this Act to make additional sanctions available.

Part 5: Integrated Transport Authorities etc.

209. The provisions in this Part extend to England and Wales, but, because they relate to passenger transport areas, in practice they have effect only in relation to areas in England.

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Section 77: Change of name of passenger transport areas and PTAs

210. This section provides for the passenger transport areas in England created under the Transport Act 1968 – that is, the six metropolitan counties in England – to be known in future as “integrated transport areas”. It also provides for the Passenger Transport Authorities in England established under the Local Government Act 1985 (one for each passenger transport area) to be known as “Integrated Transport Authorities” (“ITAs”). This section also provides that any reference in existing legislation to a “passenger transport area” or “Passenger Transport Authority” in England and Wales should be read respectively as a reference to “integrated transport area” or “Integrated Transport Authority”.

211. This section also introduces Schedule 4, which makes amendments to various enactments consequential on the change of name. The amendments reflect the fact that the change of name does not apply in Scotland, where the Strathclyde Passenger Transport Authority remains as a statutory entity.

Section 78: Power to establish a new ITA

212. This section provides that, subject to certain conditions, the Secretary of State can make orders establishing new integrated transport areas in England and creating ITAs for those areas. *Subsections (2) and (3)* provide that the Secretary of State can make an order to establish an ITA only where a scheme has been published under the provisions of section 80 and 81 or a direction under section 81 to prepare and publish a scheme has not been complied with.

Section 79: Provision that may be made in an order under section 78

213. This section sets out the provision that be made in an order under section 78. *Subsection (2)* provides that where an order is made creating a new ITA, it must provide that a majority of the ITA’s members must be elected members of the “constituent councils” (as defined in *subsection (3)*) that make up the integrated transport area, appointed by the council to which they were elected. It also provides that such an order must provide for each “representative council” (as defined in *subsection (4)*) to appoint at least one of its elected members to the ITA.

214. The effect of *subsections (5) and (6)* is that where ITA members are to be appointed otherwise than by a constituent council from among its elected members, the order must provide for those members to be non-voting members of the ITA. The voting members of the ITA are then given a power to resolve to give a non-voting member a vote.

Section 80: Authorities’ review: new ITA

215. This section provides that any two or more of the types of authorities listed in *subsection (1)* may review the effectiveness and efficiency of transport within a geographical area the extent of which complies with *subsections (2) and (3)*. The effect of this is that the area under review must consist of two or more local authority districts. If that review concludes that the establishment of an integrated transport area and ITA would improve the exercise of statutory transport functions in the area and the effectiveness and efficiency of transport in the area, then those authorities must publish a scheme for the establishment of the area and an ITA for it. *Subsection (5)* provides that the area of the proposed integrated transport area can be all or part of the area covered by the review or can also cover one or

Section 81: Secretary of State's power to direct a review: new ITA

216. This section provides that the Secretary of State can direct any two or more of the authorities listed in *subsection (2)* to carry out a review of the effectiveness and efficiency of transport in the whole or part of their combined areas. *Subsection (4)* provides that such a direction may also require the authorities to produce a scheme to establish a new ITA. *Subsection (6)* lists the types of issues which a direction may require to be covered by a review and any scheme.

Section 82: Authorities' review of arrangements

217. This section provides that any one or more of the types of authorities listed in *subsection (2)* may review the effectiveness and efficiency of transport within one or more existing integrated transport areas. If that review concludes that the exercise of statutory transport functions in those areas would be improved by the making of an order under sections 84 to 91, changing the way in which statutory transport functions in that area are exercised, then those authorities must publish a scheme proposing how this should be done.

Section 83: Secretary of State's power to direct a review of arrangements

218. This section provides that the Secretary of State can direct any combination of the following to carry out a review:

- existing ITAs;
- county or district councils in an existing integrated transport area; or
- county or district councils which are not yet in an integrated transport area but could be included in one by virtue of a boundary change (see section 90).

219. The Secretary of State can direct that the review should consist of any of the matters covered by sections 84 to 91, namely:

- the constitutional arrangements (for example the membership) of the ITA;
- the delegation of functions from the Secretary of State or individual local authorities to an ITA (or to a local transport authority for areas where there is no longer an ITA);
- conferring on an ITA a power to give directions to local authorities on the exercise of their highway and traffic authority powers; and
- changing the boundaries of, or dissolving, an integrated transport area.

220. *Subsection (6)* provides that such a direction can also require the directed body or bodies to prepare and publish a scheme containing proposals which would require the making of an order by the Secretary of State to enable them to be implemented (for instance setting

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out how many representatives each authority in an integrated transport area would have on the ITA).

221. *Subsection (8)* sets out certain requirements which the direction can also impose, including the timetable for the review and the preparation and publication of the scheme, and certain issues which must be addressed in each of them (for instance, what would be the membership of the ITA).

Section 84: Constitutional arrangements

222. This section allows the Secretary of State to make an order about the constitutional arrangements of an individual ITA.

223. *Subsection (2)* defines what is meant by “constitutional arrangements”. An order could, for instance, cover the membership of that ITA, executive arrangements within an ITA or the functions of any “executive body” of the ITA. (Under the existing legislation, each PTA has a Passenger Transport Executive, which is the executive body responsible for implementing the policies of the PTA.)

224. *Subsection (3)* defines what is meant by “executive arrangements” within the ITA, for instance the establishment of an executive and the arrangements by which that executive can exercise the powers of the ITA. These provisions mirror the provision made for local authorities by Part 2 of the Local Government Act 2000.

225. *Subsection (5)* provides that an order cannot provide that anyone other than the ITA has responsibility for agreeing its budget, so this function could not be delegated to an executive of the ITA.

Section 85: Provision that may be made in an order under section 84: membership of ITA

226. This section describes the provision that may be made in an order under section 84. *Subsection (1)* provides that where an order is made in relation to the constitution of an existing ITA and that order includes provision about the ITA’s membership, it must provide that a majority of the ITA’s members must be elected members of the ITA’s “constituent councils” (as defined in *subsection (2)*), appointed by the council to which they were elected. It also requires such an order to provide for each of the “representative councils” (as defined in *subsection (3)*) to appoint at least one of its elected members to the ITA.

227. The effect of *subsections (4)* and *(5)* is that where some ITA members are to be appointed otherwise than by a constituent council from among its elected members, the order must provide for them to be non-voting members of the ITA. However, the voting members of the ITA may resolve that a non-voting member is to be able to vote.

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Section 86: Delegation of functions of the Secretary of State

228. This section provides that the Secretary of State can make an order delegating any of the Secretary of State's own functions (for instance in relation to strategic roads or rail), to:

- an ITA; or
- where an existing ITA is being dissolved or its boundary being contracted, a designated local transport authority.

229. Section 86 does not allow the delegation of the Secretary of State's powers to make secondary legislation or to set fees and charges.

Section 87: Delegation of local authority functions

230. This section allows the Secretary of State to include provision in an order to delegate the exercise of functions of a county council or district council to:

- an ITA; or
- where an existing ITA has been dissolved or its boundary contracted, a designated local transport authority.

231. This power applies to such functions only in so far as they relate to the integrated transport area (or to a former such area), and only if the Secretary of State thinks it appropriate for the ITA or other authority to exercise that function.

232. *Subsection (3)* provides that an order made under section 87 may delegate functions of a "charging authority" to an ITA, but only where the conditions set out in that subsection are met. Functions of a charging authority include the power to make, vary or revoke a local road charging scheme under Part 3 of the TA 2000.

Section 88: Conferral of a power to direct

233. This section enables the Secretary of State to make an order which confers a power to direct on (i) an ITA, or (ii) where an existing ITA is dissolved or its boundary contracted, a designated local transport authority.

234. Where the power to direct is conferred on it, an ITA or designated local transport authority would be able to issue a direction to a metropolitan district council, county council or unitary authority as to how the latter should exercise its functions as a local highway authority or local traffic authority. Such directions could include for instance a requirement to install traffic management measures (such as bus lanes) or traffic calming measures, or the carrying out of maintenance works on their roads.

235. *Subsection (6)* provides that the power to give such directions may only be conferred in relation to specific roads or descriptions of roads (for instance, major bus routes). *Subsection (7)* makes clear that directions cannot apply to roads covered by concession agreements under the New Roads and Street Works Act 1991.

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236. *Subsections (8) and (11)* list the matters to which a direction can relate, which are:

- the provision of information about the exercise of local highway authority or local traffic authority powers;
- that the directed authority must do certain things or obtain consent before using those powers;
- imposing conditions on how the directed authority can make use of its powers in a particular case;
- that the directed authority must not make use of certain of its powers in certain circumstances; and
- that the directed authority must make use of its powers in a specific case, provided that the directing authority meets the cost of compliance with that direction.

Section 89: Contravention of an order under section 88

237. This section provides that if an authority to which the Secretary of State has granted the power to direct under section 88 issues a direction to a local highway authority or local traffic authority and the authority to which the direction is issued fails to comply with it – for instance it fails to take the necessary action to enable a bus lane to be installed on one of its roads – then the authority which issued the direction can take the necessary steps to rectify matters. This includes the ability to take over the relevant powers of the directed authority for the purposes of putting matters right and to recoup the costs of doing so from that authority.

Section 90: Changing the boundaries of an integrated transport area

238. This section allows the Secretary of State to make an order changing the boundary of an existing integrated transport area. This would enable the order to either add to or take away from an integrated transport area the whole of the area of:

- a county;
- a shire district; or
- a metropolitan district.

239. Where the order removes an authority's territory from an integrated transport area, it must also designate an authority to take over as the local transport authority for that territory. The order may also transfer the former ITA's other functions – in so far as they relate to that territory – to that authority.

Section 91: Dissolution of an integrated transport area

240. This section allows the Secretary of State to make an order to dissolve an integrated transport area and abolish its ITA. However, where the Secretary of State does so the order must also designate one or more authorities – for instance the metropolitan district councils

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within the boundaries of the integrated transport area – to take over as the local transport authorities for the former area. The order may also transfer the former ITA’s other functions to these authorities.

Section 92: Orders under sections 84 to 91

241. This section sets out several constraints on the Secretary of State’s power to make orders under sections 84 to 91, including:

- before making the order the Secretary of State must consult representatives of the bodies listed under sections 82(2) and 83(2) and any other person the Secretary of State considers relevant (*subsection (4)*);
- an order dissolving an ITA cannot be made unless a majority of the metropolitan district, county and unitary councils whose territory comprises the relevant integrated transport area have agreed to the dissolution (*subsection (6)*); and
- an order changing the boundary of an integrated transport area cannot be made unless each of the metropolitan district, county and unitary councils whose territory is either added to or excluded from that integrated transport area have agreed to the boundary change (*subsection (8)*).

Section 93: Incidental etc. provision

242. This section provides that the Secretary of State may make such incidental, consequential, transitional or supplementary provision as the Secretary of State deems necessary in support of an order made under Chapter 2 of Part 5 of the Act. For instance, an order could provide for the transfer of property and assets to an ITA in consequence of an order under section 86 or 87 which has delegated certain functions to an ITA.

243. *Subsection (4)* also allows the Secretary of State to make orders making such amendments, modifications, repeals or revocations to other primary and subordinate legislation as appear to the Secretary of State to be appropriate in consequence of making an order, for instance to reflect the fact that a new ITA has been established.

Section 94: Procedure for orders under this Chapter

244. This section provides that any order made under Chapter 2 of Part 5 would be a statutory instrument and subject to affirmative resolution in each House of Parliament. *Subsection (3)* provides that such an order shall not be subject to hybrid instrument procedures in either House of Parliament.

Section 95: Further provision about directions

245. This section provides that directions given by the Secretary of State must be in writing. Their contents can also be varied or revoked by further directions.

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Section 96: Guidance

246. This section provides that the Secretary of State can issue guidance about anything which could be done by an authority under Chapter 2 of Part 5. Authorities must have regard to this guidance in exercising any function under that Chapter.

Section 97: Change of name of ITA

247. This section provides that an existing ITA can make a resolution to change its name. *Subsection (2)* sets out conditions which must be followed in making that resolution. The ITA must notify the Secretary of State that it has changed its name. The Secretary of State can also direct the ITA that it must publish this notification and in what manner.

Section 98: Amendment of power to reorganise functions

248. Section 42 of the Local Government Act 1985 allows the Secretary of State to make orders providing, amongst other things, for the dissolution of a passenger transport area or removing the territory of one or more metropolitan district councils from that passenger transport area. Sections 90 and 91 provide revised powers to dissolve such transport areas or amend their boundaries. Given that, this section repeals the provisions in the Local Government Act 1985.

Section 99: Power to promote well-being

249. ITAs operate within a framework laid down by statute. They have no powers to act other than where they are expressly or impliedly authorised by law to do so. There is a range of statutory duties which they are required to fulfil, and a wider range of permissive powers enabling them to undertake defined activities if they so wish.

250. This section provides ITAs with a power to take any steps which they consider likely to promote or improve the economic, social or environmental well-being of their local community. These powers have already been granted to local authorities by means of Part 1 of the Local Government Act 2000. This section would allow ITAs to undertake a wide range of activities for the benefit of their local area and to improve the quality of life of local residents, businesses and those who commute to or visit the area.

251. *Subsection (3)* provides that this power enables ITAs to work in partnership with other bodies. For example, it allows ITAs to assist other statutory bodies to discharge their functions, or to exercise those functions on their behalf. *Subsections (6) and (7)* enable an ITA to delegate its power to take action under these well-being powers to a PTE or other executive body created by an order under this Part.

Section 100: Limits on power to promote well-being

252. *Subsection (1)* limits the power established in section 99 by preventing an ITA from taking any action that is prevented by a statutory prohibition, restriction or limitation. *Subsection (2)* prevents ITAs from using the well-being power in section 99 to raise money. *Subsection (3)* allows the Secretary of State to prevent one or more ITAs from using the power to do anything which the Secretary of State specifies by order that they should not do, subject to the consultation requirements in *subsection (5)*.

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253. *Subsection (7)* permits the Secretary of State to issue guidance to ITAs on the exercise of the power, subject to the consultation requirements in *subsection (8)*. *Subsection (10)* provides that any order made under the preceding subsections will be a statutory instrument subject to the affirmative resolution procedure.

Section 101: Power to amend or repeal enactments

254. Section 99 provides ITAs with a broad power to act. They will be able to use the power except where there are specific prohibitions, restrictions or limitations in other legislation. Section 101 allows the Secretary of State, by order, to amend, repeal, revoke or disapply any such enactment which obstructs ITAs from taking steps to promote the well-being of their areas. This power could be exercised in relation to one or more ITAs.

255. *Subsection (5)* provides that any order made under *subsection (1)* is a statutory instrument subject to the affirmative resolution procedure.

Section 102: Procedure for orders under section 101

256. This section sets out the procedure to be followed by the Secretary of State in making orders under section 101. It provides for detailed scrutiny of any such orders. Before laying any orders before Parliament, the Secretary of State is required to consult representatives of local government and others. The Secretary of State must make available to Parliament the results of that consultation, together with an explanation of the purpose of the order.

Part 6: Local and London charging schemes

Section 103: Power of ITAs to make charging schemes

257. This section provides that a charging scheme under Part 3 of the TA 2000 may be made jointly by an ITA and one or more eligible local traffic authorities. An eligible local traffic authority is one which is either in the ITA's area, adjoins the ITA's area, or adjoins an area which adjoins the ITA area. Such a scheme is referred to as a "joint local-ITA charging scheme".

258. The section also allows a charging scheme to be made jointly between a ITA, one or more eligible local traffic authorities and one or more London traffic authorities. Such a scheme is referred to as a "joint ITA-London charging scheme". An ITA can make a charging scheme in accordance with the provisions of section 103 only if it is done jointly with at least one eligible local traffic authority.

259. Because ITAs are established only in England, this section and sections 104 to 109 have no application to Wales.

Section 104: Local charging schemes to implement policies of ITAs

260. This section amends section 164 of the TA 2000 so that a local charging scheme which is made by one local traffic authority acting alone, and which has effect wholly within an integrated transport area, can be made only if it directly or indirectly facilitates the achievement of the local transport policies of the ITA. Where the charging scheme has effect outside of the integrated transport area then section 104 means that it can be made only if it

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directly or indirectly facilitates the achievement of the local transport policies of the charging authority.

- * Local transport policies are defined in section 108(5) of the TA 2000, inserted by section 7, as explained above.

Section 105: Joint local charging schemes to implement policies of ITAs

261. This section amends section 165 of the TA 2000 so that where a local charging scheme is made jointly by two or more local traffic authorities, and has effect wholly or partly within an integrated transport area, it can be made only if it directly or indirectly facilitates the achievement of the local transport policies of the charging authorities and the local transport policies of the ITA for that integrated transport area. Where the charging scheme has effect outside of the integrated transport area then section 105 means that it can be made only if it directly or indirectly facilitates the achievement of the local transport policies of the charging authorities.

Section 106: Joint local-ITA charging schemes

262. This section inserts a new section 165A in the TA 2000. This new section provides that a joint local-ITA charging scheme can be made only in respect of roads for which any of the charging authorities is the traffic authority, and if at least one of the roads is within the integrated transport area of the relevant ITA.

263. The new section 165A also provides that a joint local-ITA charging scheme can be made only if it directly or indirectly facilitates the achievement of the local transport policies of the charging authorities, including the local transport policies of the ITA.

Section 107: Joint local-London charging schemes to implement policies of ITAs

264. This section amends section 166 of the TA 2000 so that a joint local-London charging scheme that has effect partly within an integrated transport area may be made only if it directly or indirectly facilitates the achievement of the local transport policies of the charging authorities, including the local transport policies of the ITA, and the policies and proposals set out in the Mayor's transport strategy. As with the equivalent provision in section 165 of the TA 2000 as amended by section 105, the last of these three requirements applies even though, in a joint local-London scheme, the ITA is (by definition) not a charging authority for the scheme. Where the charging scheme has effect wholly outside of the ITA area then it can be made under section 166 of the TA 2000 only if it directly or indirectly facilitates the achievement of the local transport policies of the local traffic authority.

- * A joint local-London charging scheme is a scheme that is made jointly by a non-metropolitan local traffic authority and a London traffic authority.
- * The Mayor's transport strategy is the transport strategy prepared and published by the Mayor of London under section 142 of the Greater London Authority Act 1999.

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Section 108: Joint ITA-London charging schemes

265. This section inserts a new section 166A in the TA 2000. The new section specifies that a joint ITA-London charging scheme can be made only if:

- all of the roads included within the scheme have one of the charging authorities as their traffic authority;
- the scheme includes roads in relation to which a London traffic authority may impose a charge under Schedule 23 to the GLA Act 1999; and
- at least one of the roads included within the scheme is within the integrated transport area of the relevant ITA.

266. The new section 166A also provides that a local charging scheme may be made jointly by one or more local traffic authorities, an ITA and one or more London traffic authorities only if it directly or indirectly facilitates the achievement of the local transport policies of the local traffic authorities by which the scheme is made, the local transport policies of the ITA, and the policies and proposals set out in the Mayor's transport strategy.

Section 109: Consequential amendments

267. This section introduces Schedule 5, which makes consequential amendments resulting from the introduction of powers to allow ITAs to be party to a joint charging scheme. This includes provision for revenues from a scheme to be apportioned to the ITA.

Section 110: Abolition of requirement for confirmation of English schemes

268. This section amends section 169 of the TA 2000, so as to remove the requirement for the Secretary of State to approve a local charging scheme in England.

269. These amendments preserve the existing requirement in the TA 2000 for local charging schemes in Wales to be approved by the Welsh Ministers.

Section 111: Consultation and inquiries for English schemes

270. This section amends section 170 of the TA 2000. The effect of *subsection (2)* is to require a local charging authority in England, prior to making a charging scheme, to consult such local persons and such representatives of local persons (as defined in the provision) as they consider appropriate. It does not affect the existing powers in section 170 for local authorities in England to decide for themselves whether to consult on varying or revoking a scheme or to hold an inquiry into a scheme. The effect of *subsections (3) to (5)* is to remove the power for the Secretary of State to hold an inquiry in relation to a proposed local scheme in England or to require a local authority to consult on a proposed charging scheme.

271. The amendments also preserve the existing provisions in the TA 2000 for a local charging authority in Wales to decide whether to consult on, or hold an inquiry into, the making, varying or revocation of a local charging scheme in Wales, or for the Welsh

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Ministers to hold an inquiry into a local charging scheme in Wales, or to require a local authority to consult on such a scheme.

Section 112: Charges

272. This section amends section 171(5) of the TA 2000 and paragraph 10(4) of Schedule 23 to the GLA Act 1999, which specify a number of examples of how a charging scheme can impose different charges for different cases.

273. The amendments provide that, in addition to the cases already specified in each provision, local authorities may vary charges according to the methods or means of recording, administering, collecting or paying the charge. This could, for example, allow different rates to be applied where a road user chooses to have charges recorded automatically by means of different technologies, or to pay by different means (such as a pre-pay account or direct debit).

Section 113: Supplementary provision as to charging schemes

274. *Subsection (1)* amends section 172 of the TA 2000. It allows the appropriate national authority by means of regulations to require schemes to provide that road users may choose to pay charges in a specific manner, and (where the road user so chooses) to require the charging authority to collect charges in a specified manner. It also enables the appropriate national authority to regulate any arrangements made by the charging authority with other schemes or with other third parties for charges to be paid and collected. Regulations made under section 172 (as amended) could, for example, make provisions so that a road user could register with one charging scheme, install any appropriate equipment and make arrangements for payment in a particular way. The road user could then choose for these arrangements also to apply to one or more additional charging schemes, so that all his payments were processed in that fashion.

275. *Subsection (7)* makes equivalent provision in Schedule 23 to the GLA Act 1999, in relation to London.

276. *Subsections (3), (5) and (6)* amend section 172 of the TA 2000 and Schedule 23 to the GLA Act 1999 so as to provide that a road in London may be made subject to charges by more than one charging authority at a time, provided the Greater London Authority has given its consent.

Section 114: Suspension of charging schemes

277. This section inserts a new section 172A into the TA 2000, to allow a charging authority to suspend the operation of a charging scheme, in whole or in part, where there is an emergency or to allow for a temporary event to take place. *Subsection (2)(a)* provides that the maximum possible duration of suspension in an emergency is 30 days. Where the suspension is to allow for a temporary event to take place, *subsection (2)(b)* means that the suspension can only be for the duration of the event and any time to set up before, and clear up after, the event. *Subsection (3)* details the respects in which a scheme may be partially suspended. *Subsections (4) and (5)* require that notice of any suspension must be published and detail what is required. Under *subsection (6)* the duration of a suspension in an emergency must be reviewed and may be altered.

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Section 115: Interference with functioning of equipment

278. *Subsection (1)* amends section 173 of the TA 2000 to make it an offence to interfere with the functioning of any equipment used for, or in connection with, a charging scheme. *Subsection (2)* amends section 174 to allow the appropriate national authority to make regulations permitting the examination of a vehicle to determine whether the functioning of the equipment has been interfered with.

279. *Subsections (3) to (5)* amend paragraphs 25 and 26 of Schedule 23 to the GLA Act 1999 to make similar provisions in relation to London.

Section 116: Use of equipment for charging schemes

280. *Subsection (2)* amends section 176 of the TA 2000 to allow the appropriate national authority in England and Wales to regulate the manner in which equipment installed as part of a charging scheme is used. This supplements the existing power to make regulations to approve standards for such equipment. Regulations made under the new section 176(2)(b) could, for example:

- specify standard data formats so that equipment installed or provided by one charging scheme is compatible with similar equipment installed or provided by another;
- specify unique numbering systems for items of equipment, to avoid duplication of identification numbers between different schemes; or
- set common standards for data encryption and security.

281. The effect of *subsection (3)* is to prevent the use of equipment in connection with a charging scheme other than in accordance with regulations made under the new section 176(2)(b).

282. *Subsections (4) to (8)* amend paragraph 29 of Schedule 23 to the GLA Act 1999. The amendments to paragraph 29(1) allow the Greater London Authority to make directions relating to the use of equipment in connection with charging schemes made under that Act. The insertion of paragraph 29(3A) and (3B) allows the Secretary of State to give notice to the Greater London Authority that its directions regarding the use of equipment in connection with a charging scheme in London are incompatible with regulations made under the new section 176(2)(b) of the TA 2000, and that this incompatibility is detrimental to persons resident in England outside Greater London. It also provides that, where such notice has been given, the equipment may no longer be used in connection with a charging scheme except with the permission of the Secretary of State.

Section 117: Power of national authority to require information from charging authorities

283. *Subsection (1)* inserts a new section 177A in the TA 2000. The new section allows the appropriate national authority in England and Wales to require information from a local traffic authority or an ITA relating to an existing or proposed charging scheme. This information can be required in a specified period, and must be information that the authority have in their possession or can be expected to obtain.

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284. *Subsection (2)* inserts a new paragraph 34B in Schedule 23 to the GLA Act 1999. This new paragraph allows the Secretary of State to require information to be provided, under the same conditions, by Transport for London, a London borough council or the Greater London Authority.

Section 118: Information: England and Wales

285. *Subsections (1) to (5)* amend section 194 of the TA 2000.

286. Section 194(1) currently allows the disclosure of information to charging authorities only in relation to existing schemes. The amendment to section 194(1) which is made by *subsection (2)* allows information obtained by Ministers, Government Departments, Welsh Ministers or a local authority also to be disclosed to a local traffic authority or ITA in relation to a proposed charging scheme. *Subsection (3)* makes a corresponding amendment to the power in section 194(2), enabling a local traffic authority or ITA to use in relation to a proposed charging scheme information it has obtained from its exercise of other functions.

287. *Subsection (5)* allows the Secretary of State or the Welsh Ministers to charge a reasonable fee for supplying information under section 194 of the TA 2000. Where the traffic authority or ITA has asked the Secretary of State to obtain information from registration authorities overseas, with a view to disclosing that information under *subsections (1) and (3)*, the Secretary of State may charge a reasonable fee for obtaining that information or for seeking to obtain it.

288. *Subsections (6) to (9)* make equivalent provision in paragraph 34A of Schedule 23 to the GLA Act 1999.

Section 119: Information: Scotland

289. *Subsection (1)* allows the Secretary of State to charge a reasonable fee in respect of the cost of supplying information to a Scottish charging authority in relation to a scheme that is made under Part 3 of the Transport (Scotland) Act 2001 or any person with whom the authority has entered into arrangements under section 61(b) of that Act.

290. *Subsection (2)* limits the information to which subsection (1) refers to information obtained by the Secretary of State in the exercise of any function that relates to reserved matters (within the meaning of the Scotland Act 1998).

Section 120: London charging schemes: 10 year plan for share

291. This section amends paragraphs 19 to 24 of Schedule 23 to the GLA Act 1999 so that the approval of the Secretary of State is no longer required for charging authorities' ten year general plans and four year programmes for the application of their share of revenues from a London charging scheme.

Section 121: Other amendments relating to schemes under Part 3 of TA 2000

292. This section introduces Schedule 6, which makes amendments to Schedule 12 to the TA 2000 (financial provisions relating to road user charging and workplace parking levy schemes) and to Schedule 23 to the GLA Act 1999 (road user charging).

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293. Paragraph 8 of Schedule 12 is amended and paragraph 9 is repealed. The effect is that all the net proceeds of all local charging schemes are to be used for local transport purposes.

294. Paragraphs 10 and 11 are amended to require a detailed programme for the application of the net proceeds of a charging scheme to be produced every five years from the date on which the scheme comes into force, rather than linking the timing of the production of the detailed programme to the timing of the production of the local transport plan.

295. Paragraph 10(3) is amended so as to remove the requirement for the Secretary of State to approve a charging authority's general plans and specific programmes for the application of the net proceeds of a charging scheme in England before the relevant scheme order can come into force. This amendment does not have effect in relation to charging schemes in Wales, thus preserving the existing requirement for approval of such plans and programmes by the Welsh Ministers.

296. Paragraph 12 is amended to remove the Secretary of State's power to make regulations determining the application of proceeds by London traffic authorities from a joint London-local scheme. Instead, the proceeds will be applied in the same way as they would be in a scheme made under Schedule 23 to the GLA Act 1999.

297. Paragraph 13 is amended so that all proceeds of a trunk road charging scheme made by virtue of section 167(2)(b) of the TA 2000 are available only for application by the Secretary of State or Welsh Ministers for the purpose of directly or indirectly facilitating the achievement of any policies or proposals relating to transport.

298. Paragraphs 16 and 17 of Schedule 23 to the GLA Act 1999 are amended to the effect that all the net proceeds of all London charging schemes are to be used for relevant transport purposes, rather than enabling net proceeds in some circumstances to be applied as specified by the appropriate national authority.

299. Paragraph 18 of Schedule 23 to the GLA Act 1999 is amended to allow the Secretary of State to share in revenues from a charging scheme in London which includes a trunk road.

Part 7: Miscellaneous provisions

Section 122: Powers of the National Assembly for Wales

300. Section 94 of the Government of Wales Act 2006 provides that a provision of an Assembly Measure is within the legislative competence of the National Assembly for Wales if it relates to (or is incidental or consequential on provision that relates to) one or more of the matters specified in Schedule 5 to that Act. The list of twenty fields in which the Assembly currently exercises functions is set out in Part 1 of Schedule 5, and each field will be divided into matters. Assembly Measures may include any provision that could be made by Act of Parliament, subject to specific restrictions set out in Part 2 of Schedule 5.

301. Section 122 amends Schedule 5 to the Government of Wales Act 2006 to insert a matter into field 10 (highways and transport). This matter will allow the Assembly to pass an Assembly Measure containing provision for and in connection with the making, operation

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and enforcement of schemes that impose charges in respect of the use or keeping of motor vehicles on Welsh trunk roads (which are defined as those roads for which the Welsh Ministers are the traffic authority). The new matter does not enable such an Assembly Measure to make provision about traffic signs, apart from provision about the placing and maintenance of such signs.

302. Any Assembly Measure would be able to make provision about the application of the proceeds of a charging scheme, which must be for transport-related purposes.

Section 123: Information

303. Section 123 replicates the provisions of section 194 of the TA 2000 (as amended by section 118 of this Act) in respect of a trunk road charging scheme or proposed such scheme which is made by or under an Assembly Measure.

304. Section 123 allows information obtained by Ministers, Government Departments, local authorities or other statutory bodies to be disclosed to the Welsh Ministers in relation to a trunk road charging scheme or proposed such scheme. *Subsection (2)* allows any information that has been or could be disclosed to the Welsh Ministers under *subsection (1)* to be disclosed to any person with whom the Welsh Ministers have entered into charging scheme arrangements. *Subsection (3)* provides that such information must only be used in connection with Welsh trunk road charging schemes.

305. *Subsection (4)* allows the Secretary of State to charge a reasonable fee for supplying information under subsection (1) or (2). *Subsection (5)* provides that where the Welsh Ministers have asked the Secretary of State to obtain information from registration authorities overseas, with a view to disclosing that information under subsection (1) or (2), the Secretary of State may charge a reasonable fee for obtaining that information or for seeking to obtain it.

Section 124: Street works: reinstatement and remedial works

306. This section amends the New Roads and Street Works Act 1991 (c.22).

307. Section 48(3) of that Act defines “street works” for the purposes of Part 3 of the Act. *Subsection (2)* of section 124 inserts a new subsection (3A) into section 48 to clarify that the meaning of “street works” includes reinstatement of the street and, where an undertaker has failed to comply with his duties under Part 3 with respect to reinstatement of the street, any remedial works.

308. Section 50(1) of the New Roads and Street Works Act 1991 provides a power for street authorities to grant “street works licences” permitting, for example, apparatus to be placed, retained or inspected and to execute any works required for or incidental to such works. *Subsection (3)* of section 124 amends that section to clarify that reinstatement and, where an undertaker has failed to comply with his duties under Part 3 with respect to reinstatement of the street, any remedial works are works required for or incidental to works carried out under a street works licence.

309. Section 124 extends to England and Wales.

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Section 125: Vehicles authorised to be used under operator’s licence

310. Section 5(6) of the Goods Vehicles (Licensing of Operators) Act 1995 (c.23) makes it unlawful for an operator to use a vehicle which is not specified in that operator’s licence unless notice of the vehicle, together with payment of the prescribed fee, has been made, within one month, to the traffic commissioner. Section 125 amends that subsection, and makes a consequential amendment to subsection (7), to provide for situations where no such fee is prescribed.

311. Section 125 also amends section 263 of the TA 2000, which would substitute section 5(6) of the Goods Vehicles (Licensing of Operators) Act 1995 but has not yet been brought into force. Section 125:

- a) inserts a new subsection (6A) to define the period within which an operator must provide information to the traffic commissioner about any new vehicle to be specified on their operator’s licence. This will enable the Secretary of State to prescribe a period of up to one month beginning with the day on which the vehicle was first in the lawful possession of the operator, or (if later) the day when the relevant operator’s licence came into force; and
- b) makes a consequential amendment to the substituted section 5(6) to provide for situations where a fee is not required to be paid .

Section 126: Vehicles used without operator’s licence: power to return detained vehicles

312. Section 126 replaces paragraph 8 of Schedule 1A to the Goods Vehicles (Licensing of Operators) Act 1995 to bring it in line with paragraph 8 of the new Schedule 2A to the PPVA 1981 (which is inserted by Schedule 3 to the Act).

Section 127: Civil enforcement of traffic contraventions: meaning of “local authority”

313. This section amends provisions in Part 6 of the Traffic Management Act 2004 (c.18). The effect of the amendments is to provide a power for non-metropolitan district councils to appoint new civil enforcement officers for the purposes of sections 76, 85, 86 and 87 of that Act.

314. The relevant provisions in Part 6 of the Traffic Management Act 2004 extend to England and Wales, but are of practical relevance only in England because there are no two-tier authorities in Wales.

Section 128: Financial penalty deposits: powers of vehicle examiners in Scotland

315. This section amends the definition of “conditional offer” in section 90F of the Road Traffic Offenders Act 1988 (c.53) (“the RTOA”). It enables financial deposit requirements to be imposed on those who are issued with conditional offers in Scotland by Vehicle and Operator Services Agency (VOSA) vehicle examiners.

316. Part 3A of the RTOA (sections 90A to 90F) was inserted by section 11 of the Road Safety Act 2006 (c.49). It establishes a system of financial penalty deposits in England and Wales and Scotland to provide a means of enforcement against offenders who avoid payment of fixed penalties and prosecution by not having a satisfactory address in the United Kingdom.

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317. Under section 90A of the RTOA, police constables and vehicle examiners, appointed under section 66A of the Road Traffic Act 1988 (c.52), are able to require the payment of a deposit by a person they believe to have committed an offence in relation to a motor vehicle who does not provide a satisfactory address in the United Kingdom at which it is likely the person can be found. The police constable or vehicle examiner must also believe that the person, the offence and the circumstances in which the offence is committed are of a description specified in an order made by the Secretary of State.

318. The person must also be given written notification that it appears likely that proceedings will be brought against him in respect of the offence, or, if the offence is a fixed penalty offence, either given such notification or given a fixed penalty notice (or, in Scotland, handed a conditional offer) in respect of the offence.

319. “Conditional offer” is defined in section 90F of the RTOA to mean a notice under section 75(3)(a) of that Act. Section 75(3)(a) provides that in Scotland, a police constable may, on any occasion, hand a notice to any person he believes to be committing a fixed penalty offence, or who he believes to have committed a fixed penalty offence on that occasion.

320. The amendment extends the definition of conditional offer to include those notices under section 75(3B)(a) of the RTOA. This refers to those offers made by vehicle examiners equivalent to those made by police constables under section 75(3)(a).

321. Section 128 extends to Great Britain, but is of practical effect only in relation to Scotland.

Section 129: Disclosure of information relating to foreign-registered vehicles

322. This section inserts a new section 49A into the Road Safety Act 2006 (c.49). The new section allows the Secretary of State to disclose information, derived from a register of vehicles maintained in a country or territory outside the UK, to the list of people and for the purposes specified at *subsection (3)*. The effect of *subsection (4)* is to allow the Secretary of State to charge a reasonable fee in respect of the cost of obtaining, or seeking to obtain, the information and for supplying information. *Subsection (5)* provides that this section does not affect any other power of the Secretary of State to disclose information.

Section 130: Use of information relating to foreign-registered vehicles

323. This section inserts a new section 49B into the Road Safety Act 2006. The new section allows the Secretary of State to use the information to which section 129 applies for the purposes set out in *subsection (2)*. The information can be used:

- to carry out vehicle identity checks (allowed by virtue of the regulations made under section 22A(2) of the Vehicle Excise and Registration Act 1994);
- to check records of examinations of goods and other vehicles as maintained under section 45(6B) or 49(3A) of the Road Traffic Act 1988;

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- to promote compliance with test certificates under section 47 or 53 of the Road Traffic Act 1988; and
- to trace non-resident parents (within the meaning of the Child Support (Information, Evidence and Disclosure) Regulations 1992).

COMMENCEMENT DATES

324. The following provisions of the Act came into force on Royal Assent:

- section 77(10), which relates to the change of name of Passenger Transport Authorities and passenger transport areas;
- the provisions in Part 8 (Supplementary Provisions), other than section 131 and Schedule 7 (Repeals); and
- any power under or by virtue of the Act to make regulations or an order.

325. Sections 55, 56, 122, 123, 124 and 127 come into force two months after Royal Assent.

326. Other provisions come into force on such day or days as the Secretary of State, or the Welsh Ministers in the case of the provisions mentioned in section 134(6), may by order made by statutory instrument appoint.

327. Any repeal comes into force in the same way as the provisions of the Act to which the repeal relates.

HANSARD REFERENCES

328. The following table sets out the dates and Hansard references for each stage of this Act's passage through Parliament.

Stage	Date	Hansard reference
<i>House of Lords</i>		
Introduction	7 November 2007	Vol. 696, Col. 21
Second Reading	20 November 2007	Vol. 696, Cols. 743 to 759 and 773 to 802
Grand Committee	6 December 2007	Vol. 696, Cols. GC35 to GC92
	12 December 2007	Vol. 697, Cols. GC113 to GC174
	17 December 2007	Vol. 697, Cols. GC203 to GC260
Report	16 January 2008	Vol. 697, Cols. 1297 to 1368
Third Reading	30 January 2008	Vol. 698, Cols. 622 to 640

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House of Commons

Introduction	31 January 2008	No debate
Second Reading	26 March 2008	Vol. 474, Cols. 190 to 293
Public Bill Committee	22, 24, 29 April and 6, 8 May 2008	Local Transport Bill Committee
Report and Third Reading	27 October 2008	Vol. 481, Cols. 568 to 699
<i>Subsequent stages</i>		
Lords Consideration of Commons Amendments	18 November 2008	Vol. 705, Cols. 1071 to 1102
Royal Assent	26 November 2008	Vol. 705, Cols. 1477 to 1478

GLOSSARY

Existing Acts referred to in these Explanatory Notes

Abbreviation used in these Notes	Short Title of Act
The TA 1968	Transport Act 1968 (c. 73)
The PPVA 1981	Public Passenger Vehicles Act 1981 (c. 14)
The TA 1985	Transport Act 1985 (c. 67)
The GLA Act 1999	Greater London Authority Act 1999 (c. 29)
The TA 2000	Transport Act 2000 (c. 38)