

# KEELING SCHEDULE

## TRANSPORT ACT 2000: PART 2

### PART 2

#### Local Transport

#### Local transport plans and bus strategies

##### **108 Local transport plans**

(1) Each local transport authority must—

- (a) develop policies for the promotion and encouragement of safe, integrated, efficient and economic transport to, from and within their area, and

carry out their functions so as to implement those policies.

(2) In subsection (1), "transport" means—

- (a) the transport required to meet the needs of persons living or working in the authority's area, or visiting or travelling through that area, and
- (b) the transport required for the transportation of freight;
- (c) and [includes] facilities and services for pedestrians.

(2ZA) Each local transport authority whose area is in England must--

- (a) in developing policies in accordance with subsection (1)(a), and
- (b) in carrying out their functions in accordance with subsection (1)(b),

comply with the duties set out in subsection (2ZB).

(2ZB) The duties are--

- (a) to take into account any policies announced by Her Majesty's government, and
- (b) to have regard to any guidance issued for the purposes of this paragraph by the Secretary of State,

with respect to mitigation of, or adaptation to, climate change or otherwise with respect to the protection or improvement of the environment.

(2ZC) The power to issue guidance under subsection (2ZB)(b) does not affect the generality of the power to issue guidance under section 112(1).

(2A) Each local transport authority whose area is in Wales must also—

- (a) develop policies for the implementation in their area of the Wales Transport Strategy, and
- (b) carry out their functions so as to implement those policies.

(3) Each local transport authority whose area is in England must prepare a document to be known as (or two or more documents to be known together as) the local transport plan containing—

- (a) their policies under subsection (1)(a);
- (b) their proposals for the implementation of those policies.

(3A) Each local transport authority whose area is in Wales must prepare a document to be known as the local transport plan containing—

- (a) their policies under subsection (1)(a), and
- (b) their policies under subsection (2A).

(3B) A local transport authority whose area is in England must, in complying with the duty under subsection (1)(b), have regard to the proposals contained in their plan.

(4) In this Part "local transport authority" means—

- (a) a county council in England,
- (b) a council of a non-metropolitan district in England comprised in an area for which there is no county council,
- (c) an Integrated Transport Authority for an integrated transport area in England,
- (ca) a combined authority, or
- (d) a county council or county borough council in Wales.

(5) In this Part "local transport policies" means policies developed under subsection (1)(a).

#### **109 Further provision about plans: England**

(1) A local transport authority whose area is in England must keep their local transport plan under review and alter it if they consider it appropriate to do so.

(2) The authority may replace their plan as they think fit.

(2A) In preparing their local transport plan, and in keeping it under review, an authority other than an Integrated Transport Authority [or a combined authority] must consult—

- (a) the Secretary of State in relation to functions which the Secretary of State has--
  - (i) as highway authority by virtue of section 1 of the Highways Act 1980, or
  - (ii) as traffic authority by virtue of section 121A of the Road Traffic Regulation Act 1984,
- (b) if the local transport authority is a county council, the councils of the districts in the county (if any).

(2B) In preparing their local transport plan, and in keeping it under review, an Integrated Transport Authority or a combined authority must consult—

- (c) each local traffic authority (within the meaning of the Road Traffic Regulation Act 1984) for any area within the integrated transport area of the Integrated Transport Authority [or (as the case may be) the area of the combined authority,
- (d) the Secretary of State in relation to functions which the Secretary of State has—
  - (i) as highway authority by virtue of section 1 of the Highways Act 1980, or
  - (ii) as traffic authority by virtue of section 121A of the Road Traffic Regulation Act 1984,
- (e) each county council and each district council for any area within the integrated transport area of the Integrated Transport Authority [or (as the case may be) the area of the combined authority.

(2C) In preparing their local transport plan, and in keeping it under review, the authority must consult such of the following persons as they consider appropriate—

- (a) operators of any network or station, or of any railway services, in their area;
- (b) operators or providers of other transport services in their area, or organisations appearing to the authority to be representative of the interests of such persons;
- (c) organisations appearing to the authority to be representative of the interests of users of transport services and facilities in their area;

and must also consult any other persons whom they consider appropriate.

(2D) Any expression which is used in subsection (2C)(a) or (b) and in Part 1 of the Railways Act 1993 has the meaning given in that Part, taking "railway" to have its wider meaning (see section 81 of that Act).

(3) As soon as practicable after any occasion when they prepare a new plan or alter their plan, the authority must—

- (a) publish the plan or the plan as altered in such manner as they think fit, and
- (b) send a copy of it to the Secretary of State . . . and to such other persons (if any) as may be specified in guidance under section 112(1).

(4) The authority must also—

- (a) cause a copy of their local transport plan to be made available for inspection (at all reasonable hours) at such places as they think fit,
- (b) give notice, by such means as they think expedient for bringing it to the attention of the public, as to the places at which a copy of it may be inspected, and
- (c) supply a copy of it (or any part of it) to any person on request, either free of charge or at a charge representing no more than the cost of providing the copy.

(5) ..

(6) ..

#### **109A Approval of plans: Wales**

(1) A local transport authority whose area is in Wales must submit their local transport plan to the National Assembly for Wales for its approval.

(2) If the Assembly refuses to approve a plan submitted to it by a local transport authority under this section—

- (a) the Assembly must give the local transport authority a statement of the reasons for its refusal, and
- (b) the authority must prepare another local transport plan and submit the plan to the Assembly for its approval.

(3) If the Assembly approves a local transport plan under this section, the plan has effect when the approval is given.

(4) The Assembly may approve a local transport plan under this section if (but only if) it considers--

- (a) that the plan is consistent with the Wales Transport Strategy, and
- (b) that the policies contained in the plan are adequate for the implementation in the authority's area of the Strategy.

(5) . . .

#### **109B Further provision about plans: Wales**

(1) A local transport authority whose area is in Wales must keep their local transport plan under review and alter it if they consider it appropriate to do so.

(2) The authority must in particular review the plan as soon as practicable after the publication of the Wales Transport Strategy or any revision of it.

(3) The authority must replace their local transport plan not later than five years after the date on which the plan was approved under section 109A.

(4) Section 109A applies to a replacement plan and a plan as altered as it applies to a plan as originally prepared.

(5) A local transport authority whose area is in Wales shall be taken to have complied with subsection (3) if (but only if)—

- (a) the authority submit their replacement plan to the National Assembly for Wales for approval under section 109A before the end of the five year period mentioned in subsection (3), and
- (b) the Assembly approves the plan under section 109A (whether the approval is given before or after the end of that five year period).

(6) If an authority fail to comply with subsection (3) because they fail to submit their replacement plan to the Assembly for approval under section 109A before the end of the five year period mentioned in that subsection, the authority must replace their local transport plan as soon as practicable after the expiry of the five year period.

(7) If an authority fail to comply with subsection (3) because the Assembly refuses to approve a plan submitted to it under section 109A, the authority must replace their local transport plan as soon as practicable after the refusal.

(8) As soon as practicable after their plan, or their plan as altered, has been approved under section 109A, a local transport authority whose area is in Wales must—

- (a) publish the plan or the plan as altered in such manner as they think fit, and
- (b) send a copy of it to such persons (if any) as may be specified in guidance under section 112(1).

(9) The authority must also—

- (a) cause a copy of their local transport plan to be made available for inspection (at all reasonable hours) at such places as they think fit,
- (b) give notice, by such means as they think expedient for bringing it to the attention of the public, as to the places at which a copy of it may be inspected, and
- (c) supply a copy of it (or any part of it) to any person on request, either free of charge or at a charge representing no more than the cost of providing the copy.

### **109C Transitional provisions: Wales**

(1) Where a local transport authority whose area is in Wales have, before 1st August 2001, prepared and published a document which—

- (a) contains policies developed by them for the purposes described in section 108(1)(a), and
- (b) was prepared and published in accordance with guidance issued by the National Assembly for Wales,

that document shall be taken to be the authority's local transport plan.

(2) But, in the case of a document which is a local transport plan by virtue of subsection (1), section 109B(3) requires its replacement not later than such date as is specified in an order made by the National Assembly for Wales (rather than not later than five years after the date on which it was approved under section 109A).

(3) For the purposes of section 109B(3), a local transport plan made before the coming into force of section 109A by a local transport authority whose area is in Wales shall be taken to have been approved under section 109A on the date on which it was made.

**110 ...**

**111 ...**

### **112 Plans and strategies: supplementary**

(1) In carrying out their functions under sections 108 to 109B, a local transport authority must have regard to any guidance concerning—

- (a) the content of local transport plans,
- (b) the preparation of such plans,
- (c) the alteration and replacement of such plans, and

- (d) the publication and making available of such plans as originally made and as altered or replaced,

which is issued from time to time by the Secretary of State (as respects England) or the National Assembly for Wales (as respects Wales).

(2) In developing and implementing their policies under section 108(1), a local transport authority must have regard to the transport needs of disabled persons (within the meaning of the Equality Act 2010) and of persons who are elderly or have mobility problems.

### **113 Role of metropolitan district councils**

(1) . . .

(2) The duties imposed on an Integrated Transport Authority for an integrated transport area [or a combined authority for an area] by—

- (a) section 108(1)(b), (2ZA) and (3B), and
- (b) section 109(4),

are also duties of each of the councils for the metropolitan districts comprised in the area, subject to the modifications set out in subsection (2A).

(2A) The modifications are—

- (a) in section 108(1)(b), the reference to "those policies" is a reference to the policies developed by the Integrated Transport Authority or (as the case may be) the combined authority for that area;
- (b) in section 108(3B), the reference to "their plan" is a reference to the local transport plan of the Integrated Transport Authority or (as the case may be) the combined authority for that area;
- (c) in section 109(4), the reference to "their local transport plan" is a reference to the local transport plan of the Integrated Transport Authority or (as the case may be) the combined authority for that area.

(3) . . .

### **113A Modification of provisions about plans and strategies: Wales**

(1) The National Assembly for Wales may by order modify the application of [sections 108 to 109B] in relation to local transport authorities whose areas are in Wales for the purpose of—

- (a) permitting a local transport plan to be prepared in respect of part only of an authority's area;
- (b) permitting a local transport plan to be prepared by two or more authorities jointly in respect of an area comprising all or any part or parts of their areas.

(2) An order under subsection (1) made for the purpose mentioned in subsection (1)(b) may in particular include provision for—

- (a) the plan to be prepared by one of the authorities concerned on behalf of both or all of them;
- (b) administrative arrangements, including the apportionment of the cost of preparing the plan between the authorities concerned.

(3) Before making an order under subsection (1) the Assembly must consult the local transport authorities concerned and any other persons it considers appropriate.

### **113B Directions concerning plans and strategies: Wales**

(1) The National Assembly for Wales may issue to a local transport authority whose area is in Wales general or specific directions as to the manner in which they are to carry out their functions under sections 108 to 109B.

(2) Directions issued by the Assembly under subsection (1) may include in particular directions—

- (a) as to the timetable in accordance with which a local transport plan or alterations to a local transport plan must be prepared;
  - (b) as to the action required to be taken to implement the policies contained in a local transport plan;
  - (c) as to the steps required to be taken to remove the effects of action which is incompatible with those policies.
- (3) Directions under this section—
- (a) must be in writing;
  - (b) may be varied or revoked by further directions under this section.
- (4) Before issuing, varying or revoking directions under this section the Assembly must consult the local transport authority concerned and any other persons it considers appropriate.

*Bus services: advanced quality partnership schemes*

**113C Advanced quality partnership schemes**

(1) A local transport authority whose area is in England, or two or more such authorities acting jointly, may make an advanced quality partnership scheme if they are satisfied that the scheme will contribute to the implementation of their local transport policies.

(2) An advanced quality partnership scheme is—

- (a) a scheme falling within subsection (3) or (4), or
- (b) a scheme falling within both subsection (3) and subsection (4).

(3) A scheme falls within this subsection if it is a scheme under which—

- (a) the authority or authorities provide particular facilities in the whole or part of their area, or combined area, and
- (b) operators of local services who wish to use those facilities must undertake to provide local services of a particular standard when using them.

(4) A scheme falls within this subsection if it is a scheme under which—

- (a) the authority or authorities take particular measures in relation to routes in the whole or part of their area, or combined area, that are served, or proposed to be served, by local services, and
- (b) operators of local services who wish to provide local services with stopping places on those routes must undertake to provide local services of a particular standard when providing such local services on those routes.

(5) A scheme may not be made unless the authority or authorities are satisfied that—

- (a) the steps to be taken by the authority or authorities under the scheme, and
- (b) the provision of local services of the standard or standards required by undertakings given under the scheme,

are likely to achieve one or more of the outcomes described in subsection (6) in relation to the whole or part of their area, or combined area.

(6) The outcomes mentioned in subsection (5) are—

- (a) an improvement in the quality of local services that benefits persons using those services;
- (b) a reduction or limitation of traffic congestion, noise or air pollution;
- (c) an increase in the use of local services or an end to, or a reduction in, a decline in the use of local services.

(7) An advanced quality partnership scheme may not be made unless the authority or authorities have complied with the notice and consultation requirements imposed by section 113G.

(8) The power to make an advanced quality partnership scheme includes power to provide for—

- (a) different facilities to be provided under the scheme,

- (b) different measures to be taken under the scheme, or
  - (c) different standards of services to be provided under the scheme,
- as from different dates after the scheme comes into operation.

(9) In carrying out their functions under this Part in relation to advanced quality partnership schemes, local transport authorities whose areas are in England must co-operate with one another.

(10) In considering whether to make an advanced quality partnership scheme, a local transport authority must have regard to the desirability, in appropriate cases, of making a scheme jointly with another such authority.

### **113D Advanced quality partnership schemes: registration restrictions**

(1) If the authority or authorities making an advanced quality partnership scheme consider that it is necessary or expedient for any restrictions to be imposed on the registration of—

- (a) any local services, or
- (b) any local services of a particular description,

they may impose those restrictions (“registration restrictions”) by specifying or describing them in the scheme.

(2) Any restrictions so imposed must be for the purpose of preventing or restricting—

- (a) the provision of local services, or
- (b) the variation or withdrawal of local services,

in cases where the authority or authorities consider that any such provision, or (as the case may be) variation or withdrawal, of services might be detrimental to the provision of services under the scheme.

(3) Where a scheme includes any registration restrictions by virtue of subsection (1), it must also specify the criteria (“registration criteria”) by reference to which a traffic commissioner is to decide whether or not to accept an application for registration.

(4) In this section “registration”, in relation to any service—

- (a) means registration of prescribed particulars of the service under section 6 of the Transport Act 1985 (registration of local services), and
- (b) includes a reference to the variation or cancellation of any such registration.

### **113E Advanced quality partnership schemes: facilities, measures and standards**

(1) The facilities which may be specified in an advanced quality partnership scheme—

- (a) must be facilities provided at specific locations along routes served, or proposed to be served, by local services within the area to which the scheme relates, or facilities which are ancillary to such facilities, but
- (b) may not be facilities which are required to be provided as a result of section 139 or 140.

(2) The measures which may be specified in a scheme—

- (a) must be measures taken for the purpose of—
  - (i) increasing the use of local services serving the routes to which the measures relate or ending or reducing a decline in the use of such services, or
  - (ii) improving the quality of local services serving the routes to which the measures relate, but
- (b) may not include the provision of—
  - (i) facilities falling within subsection (1)(a), or
  - (ii) facilities which are required to be provided as a result of section 139 or 140.

(3) The Secretary of State may by regulations make further provision about the measures which may or may not be specified in a scheme.

- (4) The standard of services which may be specified in a scheme includes—
- (a) requirements which the vehicles being used to provide the services must meet, and
  - (b) requirements as to frequency or timing of the services,

but the specification of any such requirements is not to prevent operators from providing services in excess of those requirements.

- (5) The standard of services which may be specified in a scheme may also include—
- (a) requirements as to the maximum fares that may be charged for particular journeys, or for journeys of particular descriptions, on services to which the scheme applies,
  - (b) requirements as to the ways in which passengers may pay for journeys,
  - (c) requirements about providing information to the public about local services or particular descriptions of local services, and
  - (d) requirements as to the publicising of local services, fares or ticketing arrangements or particular descriptions of local services, fares or ticketing arrangements.

(6) Requirements under subsection (5)(b), (c) and (d) may include requirements for operators of local services to co-operate with one another.

(7) A scheme may include a requirement falling within subsection (4)(b) or (5)(a) only if there are no admissible objections to the requirement from relevant operators.

(8) A scheme may include a requirement falling within subsection (4)(a) or (5)(b) that relates to an undertaking that would fall to be given under section 113C(4)(b) only if there are no admissible objections to the requirement from relevant operators.

(9) Section 113N(3) to (8) makes further provision with respect to schemes which include the requirements referred to in subsections (7) and (8).

### **113F Advanced quality partnership schemes: traffic regulation orders**

(1) If the provision of any of the facilities or taking of any of the measures specified in an advanced quality partnership scheme requires the making of a traffic regulation order in respect of a road or other place in a metropolitan district (other than a road for which the Secretary of State is the traffic authority), the scheme may not be made unless it is made by—

- (a) the local transport authority or authorities, and
- (b) the metropolitan district council for the district,

acting jointly.

(2) If the provision of any of the facilities or taking of any of the measures specified in an advanced quality partnership scheme requires the making of a traffic regulation order in respect of a road for which the Secretary of State is the traffic authority, the scheme may not be made unless it is made by—

- (a) the local transport authority or authorities, and
- (b) the Secretary of State,

acting jointly.

(3) Where subsection (1) or (2) applies so that a metropolitan district council or the Secretary of State is a maker of the scheme, then (subject to section 113M) the relevant references to the authority or authorities include (as well as the local transport authority or authorities)—

- (a) the metropolitan district council, or
- (b) the Secretary of State.

(4) For the purpose of subsection (3) the relevant references are those in—

- (a) section 113C(3), (4), (5)(a) and (7),
- (b) sections 113G to 113L, and
- (c) section 123H(6),



and paragraph 27(3) of Schedule 9 to the Road Traffic Regulation Act 1984.

### **113G Notice and consultation requirements**

(1) If an authority or authorities propose to make an advanced quality partnership scheme, they must give notice of the proposed scheme in such manner as they consider appropriate for drawing it to the attention of persons in the area to which it relates.

(2) The notice must either contain full details of—

- (a) any facilities specified in the scheme,
- (b) any measures specified in the scheme,
- (c) the standards of services specified in the scheme, and
- (d) any registration restrictions and registration criteria specified in the scheme,

or state where such details may be inspected.

(3) After giving notice of the proposed scheme, the authority or authorities must consult—

- (a) all operators of local services who would, in the opinion of the authority or authorities, be affected by it,
- (b) such organisations appearing to the authority or authorities to be representative of users of local services as they think fit,
- (c) any other relevant local authority any part of whose area would, in the opinion of the authority or authorities, be affected by it,
- (d) a traffic commissioner,
- (e) the chief officer of police for each police area covering the whole or part of that area,
- (f) the Competition and Markets Authority, and
- (g) such other persons as the authority or authorities think fit.

(4) For the purpose of subsection (3)(c) the following are relevant local authorities—

- (a) local transport authorities,
- (b) district councils in England,
- (c) London transport authorities, and
- (d) councils in Scotland.

### **113H Making of scheme**

(1) If, after taking the steps described in section 113G, an authority or authorities decide that it is appropriate to make the advanced quality partnership scheme, they may make it as proposed or with modifications.

(2) The scheme must specify each of the following—

- (a) any facilities to be provided under it by the authority or authorities,
- (b) any measures to be taken under it by the authority or authorities and the routes to which they relate,
- (c) the standards of services to be provided under it by operators of local services in accordance with their undertakings given in relation to facilities or measures to be provided or taken under the scheme,
- (d) any registration restrictions imposed by it and any registration criteria specified in it,
- (e) the date on which it is to come into operation,
- (f) the period for which it is to remain in operation, which must not be less than five years, and
- (g) if—
  - (i) any facilities are to be provided under the scheme,

- (ii) any measures are to be taken under the scheme, or
  - (iii) any standards of services are to be provided under the scheme,
- as from a date after the scheme comes into operation, the date as from which they are to be so provided or taken.

(3) The scheme may provide that—

- (a) local services specified in it, or
- (b) local services of a class specified in it,

are to be excluded from the scheme, subject to such conditions (if any) as may be specified in it.

(4) The date as from which any particular facilities are to be provided, any particular measures are to be taken, or any services of a particular standard are to be provided, must not be earlier than—

- (i) in the case of facilities or measures, the latest of dates A to C (see subsections (6) to (8)),
- (ii) in the case of services, the later of dates A and D (see subsections (6) and (9)),

unless the case falls within subsection (5).

(5) If under the scheme—

- (a) particular facilities are to be provided or particular measures are to be taken by the authority or authorities, and
- (b) as from the date by which the facilities are to be provided or the measures are to be taken, services of a particular standard are to be provided by operators of local services when using the facilities or when providing local services with stopping places on routes to which the measures relate,

the date as from which the facilities are to be provided or the measures are to be taken (and as from which the services are to be provided) must not be earlier than the latest of dates A to D.

(6) Date A is the date 3 months after the date on which the scheme is made.

(7) Date B is the date by which, in the opinion of the authority or authorities, it will be reasonably practicable for the authority or authorities to provide the facilities or take the measures.

(8) Date C is the date 3 months after—

- (a) the date on which any traffic regulation order required for the provision of any of the facilities or taking of any of the measures is made, or
- (b) if more than one such order is required for the provision of the facilities or the taking of the measures, the date on which the last of them is made.

(9) Date D is the date by which, in the opinion of the authority or authorities, it will be reasonably practicable for operators of local services to provide services of the particular standard.

(10) Not later than 14 days after the date on which the scheme is made, the authority or authorities must give notice of the making of the scheme—

- (a) in such manner as they consider appropriate for drawing it to the attention of persons in the area to which it relates,
- (b) to all operators of local services who would, in their opinion, be affected by the scheme, and
- (c) to a traffic commissioner.

(11) The notice must—

- (a) either contain full details of the scheme or state where such details may be inspected, and
- (b) if the scheme made is a modified version of that proposed, state that fact.

### **113I Postponement of scheme or of provision of particular facilities, taking of particular measures or provision of particular standards of service**

(1) If it appears to the authority or authorities appropriate to do so, they may decide that any of the dates specified in subsection (3) shall be postponed by such period as they think fit.

(2) A date may not be postponed under subsection (1) by a period or periods which in total exceed 12 months.

(3) The dates are—

- (a) the date on which the scheme is to come into operation,
- (b) the date as from which any particular facilities are to be provided under the scheme,
- (c) the date as from which any particular measures are to be taken under the scheme,
- (d) the date as from which any particular services are to be provided to a particular standard under the scheme.

(4) Before making such a decision the authority or authorities must consult all operators of local services who would, in their opinion, be affected by the scheme.

(5) Not later than 14 days after the date on which any such decision is made they must give notice of the decision—

- (a) in such manner as they consider appropriate for drawing it to the attention of persons in the area to which it relates,
- (b) to all operators of local services who would, in their opinion, be affected by the scheme, and
- (c) to a traffic commissioner.

### **113J Effect of scheme**

(1) The authority or authorities must—

- (a) provide each of the specified facilities or take each of the specified measures not later than the date specified for it to be provided or taken under the scheme, and
- (b) continue to provide the facilities or keep the measures in effect throughout the remainder of the period for which the scheme is in operation.

(2) But subsection (1) does not apply in relation to any period during which the authority or authorities are temporarily unable to provide the facilities or take the measures or keep the measures in effect owing to circumstances beyond their control.

(3) Nor does it apply in the case of the Secretary of State if the Secretary of State is unable to provide the facilities or take the measures or keep the measures in effect owing to the variation or revocation of a traffic regulation order.

(4) The operator of a local service may not use facilities provided under an advanced quality partnership scheme unless—

- (a) the operator has given a written undertaking to a traffic commissioner that, when using the facilities on any date, the operator will provide the service to the standard specified in the scheme that is relevant to the use of those facilities on that date, and
- (b) the operator provides the service to that standard when using the facilities, except in relation to any period during which the operator is temporarily unable to do so owing to circumstances beyond the operator's control.

(5) Where a measure has been taken under an advanced quality partnership scheme, the operator of a local service may not use a stopping place on the route to which that measure relates unless—

- (a) the operator has given a written undertaking to a traffic commissioner that, when using such a stopping place on any date, the operator will provide the service to the standard specified in the scheme that is relevant to the use of such a stopping place on that date, and

- (b) the operator provides the service to that standard when using such a stopping place, except in relation to any period during which the operator is temporarily unable to do so owing to circumstances beyond the operator's control.

(6) But subsections (4) and (5) do not apply in relation to services which are excluded from the scheme as a result of any provision of the scheme made in accordance with section 113H(3).

(7) Where the exclusion of a local service from the scheme is made subject to conditions as a result of such a provision, those conditions are to be treated, during any period in which the scheme is in operation, as if they were prescribed particulars of the service concerned registered under section 6 of the Transport Act 1985 (registration of local services).

### **113K Regulations about schemes involving existing facilities or measures which are already in effect**

(1) The Secretary of State may by regulations make provision about the specifying in advanced quality partnership schemes of—

- (a) facilities which are already being provided before the schemes are proposed (“existing facilities”), and
- (b) measures which are already in effect before the schemes are proposed (“existing measures”).

(2) The regulations may in particular—

- (a) provide that existing facilities may not be specified if they were being provided before a date prescribed by, or determined in accordance with, the regulations,
- (b) provide that existing measures may not be specified if they were in effect before such a date,
- (c) provide that—
  - (i) particular existing facilities or classes of existing facilities, or
  - (ii) particular existing measures or classes of existing measures, may not be specified (whenever they were first provided or taken),
- (d) provide that—
  - (i) particular existing facilities or classes of existing facilities, or
  - (ii) particular existing measures or classes of existing measures, may be specified only in circumstances prescribed by the regulations,
- (e) provide that, in circumstances prescribed by the regulations—
  - (i) particular existing facilities or classes of existing facilities, or
  - (ii) particular existing measures or classes of existing measures, may be specified only with the consent of a person prescribed by, or determined in accordance with, the regulations, and
- (f) make provision modifying any provision of sections 113G to 113I in relation to schemes which specify existing facilities or existing measures.

### **113L Variation or revocation of schemes**

(1) The authority or authorities who made an advanced quality partnership scheme may vary the scheme if they decide that it is appropriate to do so.

(2) The authority or authorities who made a scheme may revoke it before the end of the period for which it would otherwise remain in operation if all persons who have given an undertaking to provide a service to the standard specified in the scheme consent to the revocation of the scheme; and such consent must not be unreasonably withheld.

(3) If the variation of a scheme under subsection (1) would require the making of a traffic regulation order, the variation is subject to the same procedure as the making of a scheme.

(4) Any other variation of a scheme under subsection (1), or the revocation of a scheme under subsection (2), is subject to that procedure, except to the extent that the procedure is modified by regulations made under section 113N.

### **113M Variation: supplementary**

(1) The relevant references to the authority or authorities in relation to an advanced quality partnership scheme—

- (a) include a local transport authority if it has been varied so that it relates to that authority's area, but
- (b) do not include a local transport authority if it has been varied so that it no longer relates to that authority's area.

(2) But if (although the scheme does not relate to a local transport authority's area) it would do by reason of a proposed variation, those references (apart from those in section 113J) include that authority.

(3) The relevant references (apart from those in section 113C(1) and in the words before paragraph (a) of section 113C(5)) to the authority or authorities in relation to an advanced quality partnership scheme—

- (a) include a traffic regulation authority if it has been varied so that it specifies traffic regulation facilities or traffic regulation measures, but
- (b) do not include a traffic regulation authority if it has been varied so that it no longer specifies such facilities or measures.

(4) But if (although the scheme does not specify facilities which are traffic regulation facilities in relation to a traffic regulation authority or measures which are traffic regulation measures in relation to a traffic regulation authority) it would do by reason of a proposed variation, those references (apart from those in section 113J) include that authority.

(5) And if (although the scheme specifies facilities which are traffic regulation facilities in relation to a traffic regulation authority or measures which are traffic regulation measures in relation to a traffic regulation authority)—

- (a) the traffic regulation order, or (where more than one) each of the traffic regulation orders, required to be made by that authority for the provision of those facilities or the taking of those measures has been revoked, and
- (b) the scheme is proposed to be varied (but not so that it specifies other facilities which are traffic regulation facilities in relation to that authority or other measures which are traffic regulation measures in relation to that authority),

the relevant references (apart from those in section 113J) do not include that authority.

(6) For the purposes of this section the relevant references are those in—

- (a) section 113C(1) to (7),
- (b) section 113D,
- (c) sections 113G to 113L, and
- (d) section 123H(6),

and paragraph 27(3) of Schedule 9 to the Road Traffic Regulation Act 1984.

(7) In this section "traffic regulation authority" means—

- (a) a metropolitan district council, or
- (b) the Secretary of State.

(8) For the purposes of this section—

- (a) facilities are traffic regulation facilities, in relation to a traffic regulation authority and an advanced quality partnership scheme, if that authority was required to be a maker of the scheme because it originally specified those facilities or would have been required to be a maker of it had it done so;

- (b) measures are traffic regulation measures, in relation to a traffic regulation authority and an advanced quality partnership scheme, if that authority was required to be a maker of the scheme because it originally specified those measures or would have been required to be a maker of it had it done so.

### **113N Regulations about schemes**

- (1) The Secretary of State may by regulations make further provision with respect to—
  - (a) the procedure to be followed when making, varying or revoking advanced quality partnership schemes,
  - (b) the content or operation of schemes which include—
    - (i) a requirement falling within section 113E(4)(b) or (5)(a), or
    - (ii) a requirement falling within section 113E(4)(a) or (5)(b) relating to an undertaking that would fall to be given under section 113C(4)(b),
  - (c) the local services or classes of local services which must be, or may be, excluded from schemes,
  - (d) the conditions which must be, or may be, attached to such exclusions,
  - (e) the form and manner in which undertakings are to be given to a traffic commissioner in connection with schemes,
  - (f) the making of traffic regulation orders in connection with schemes, and
  - (g) such other incidental matters in connection with advanced quality partnership schemes as the Secretary of State thinks fit.
- (2) The regulations may in particular make provision with respect to—
  - (a) giving notice of proposed schemes or proposed variations or revocation of schemes,
  - (b) objections to such proposals,
  - (c) the holding of inquiries or hearings into objections,
  - (d) modifications of such proposals,
  - (e) the form of schemes or variations, and
  - (f) giving notice of schemes which have been made or of the variation or revocation of schemes.
- (3) As regards schemes which include or would include—
  - (a) a requirement described in subsection (1)(b)(i), or
  - (b) a requirement described in subsection (1)(b)(ii),regulations under subsection (1)(a) or (b) may in particular make the provision referred to in subsection (4).
- (4) The provision mentioned in subsection (3) is provision—
  - (a) for section 113E(7) or (8) not to apply in such circumstances as may be prescribed,
  - (b) in prescribed circumstances where such schemes, or any provisions of such schemes, are subject to postponement under section 113I, for any such requirement not to take effect unless prescribed conditions are satisfied,
  - (c) as to the meaning of “admissible objection” for the purposes of section 113E(7) and (8) and subsection (5)(b) of this section,
  - (d) as to the meaning of “relevant operator” for those purposes, and
  - (e) as to the determination of any question whether an objection is an admissible objection or an operator is a relevant operator.
- (5) As regards schemes which include a requirement described in subsection (1)(b)(i), regulations under subsection (1)(b) may also make provision—
  - (a) requiring such schemes to include provision—

- (i) as respects the setting of frequencies, timings or maximum fares to which the requirements relate,
  - (ii) for a minimum interval before any requirements as to frequencies, timings or maximum fares may next be reviewed,
  - (iii) for a maximum interval before any such requirements must next be reviewed,
  - (iv) as respects other circumstances in which any such requirements must or may be reviewed, and
  - (v) as respects revision of any such requirements after a review,
- (b) for any requirement as to frequencies, timings or maximum fares to be revised only if there are no admissible objections to the revision from relevant operators.
- (6) The revision of requirements as to frequencies, timings or maximum fares under any provision included in a scheme by virtue of regulations under subsection (5)(a) is not to be regarded as a variation of the scheme for the purposes of section 113L (variation or revocation of schemes).
- (7) Nothing in subsection (5) or (6) is to be taken to derogate from what may be done under or by virtue of section 113L.
- (8) The provision that may be made by virtue of subsection (4)(e) includes provision for and in connection with—
- (a) the appointment of a person (“an adjudicator”) to make such a determination as is mentioned in that paragraph;
  - (b) the appointment of a person (“an assessor”) to assist an adjudicator in considering any question which appears to arise in relation to such a determination;
  - (c) the payment—
    - (i) by the Secretary of State to an adjudicator, or
    - (ii) by the Secretary of State or an adjudicator to an assessor,
 of such remuneration as may be determined by or in accordance with the regulations.

### **1130 Guidance about schemes**

- (1) The Secretary of State may issue guidance concerning the carrying out by local transport authorities whose areas are in England and metropolitan district councils of their functions under this Part in relation to advanced quality partnership schemes.
- (2) Those authorities and councils must have regard to any such guidance.

#### *Bus services: quality partnership schemes*

### **114 Quality partnership schemes**

(1) A local transport authority, or two or more such authorities acting jointly, may make a quality partnership scheme if they are satisfied that the scheme will contribute to the implementation of their local transport policies (but this is subject to subsection (1A)).

(1A) A local transport authority whose area is in England may exercise the power to make a quality partnership scheme only if—

- (a) they are acting jointly with one or more other local transport authorities, and
  - (b) at least one of those other local transport authorities is an authority whose area is in Wales.
- (2) A quality partnership scheme is a scheme under which—
- (a) the authority or authorities provide particular facilities in the whole or part of their area, or combined area, and
  - (b) operators of local services who wish to use the facilities must undertake to provide local services of a particular standard when using them.

(3) The authority or authorities must be satisfied that both the provision of those facilities and the provision of local services of that standard will—

- (a) bring benefits to persons using local services in the whole or any part of their area, or combined area, by improving the quality of those services, or
- (b) reduce or limit traffic congestion, noise or air pollution.

(3A) If the authority or authorities consider that it is necessary or expedient for any restrictions to be imposed on the registration of—

- (a) any local services, or
- (b) any local services of a particular description,

they may impose those restrictions ("registration restrictions") by specifying or describing them in the scheme.

(3B) Any restrictions so imposed must be for the purpose of preventing or restricting—

- (a) the provision of local services, or
- (b) the variation or withdrawal of local services,

in cases where the authority or authorities consider that any such provision, or (as the case may be) variation or withdrawal, of services might be detrimental to the provision of services under the scheme.

(3C) Where a scheme includes any registration restrictions by virtue of subsection (3A), it must also specify the criteria ("registration criteria") by reference to which a traffic commissioner is to decide whether or not to accept an application for registration.

(3D) In subsections (3A) to (3C) "registration", in relation to any service,—

- (c) means registration of prescribed particulars of the service under section 6 of the Transport Act 1985 (registration of local services), and
- (d) includes a reference to the variation or cancellation of any such registration.

(4) A quality partnership scheme may not be made unless the authority or authorities have complied with the notice and consultation requirements imposed by section 115.

(5) The facilities which may be specified in a scheme—

- (a) must be facilities provided at specific locations along routes served, or proposed to be served, by local services within the area to which the scheme relates, or facilities which are ancillary to such facilities, but
- (b) may not be facilities which are required to be provided as a result of section 139 or 140.

(6) The standard of services which may be specified in a scheme includes—

- (a) requirements which the vehicles being used to provide the services must meet, and
- (b) requirements as to frequency or timing of the services,

but the specification of any such requirements is not to prevent operators from providing services in excess of those requirements.

(6A) The standard of services which may be specified in a scheme may also include requirements as to the maximum fares that may be charged for particular journeys, or for journeys of particular descriptions, on services to which the scheme applies.

(6B) A scheme may include a requirement falling within subsection (6)(b) or (6A) only if there are no admissible objections to the requirement from relevant operators.

Section 122(3) to (5) makes further provision with respect to such schemes.

(6C) The power to make a quality partnership scheme includes power to provide for different facilities, or different standards of services, to be provided under the scheme as from different dates after the scheme comes into operation.



(7) If the provision of any of the facilities requires the making of a traffic regulation order in respect of a road or other place in a metropolitan district (other than a road for which the Secretary of State or the National Assembly for Wales is the traffic authority), the scheme may not be made unless it is made by—

- (a) the local transport authority or authorities, and
- (b) the metropolitan district council for the district,

acting jointly.

(8) If the provision of any of the facilities requires the making of a traffic regulation order in respect of a road for which the Secretary of State or the National Assembly for Wales is the traffic authority, the scheme may not be made unless it is made by—

- (a) the local transport authority or authorities, and
- (b) the Secretary of State or the National Assembly for Wales,

acting jointly.

(9) Where subsection (7) or (8) applies so that a metropolitan district council, the Secretary of State or the National Assembly for Wales is a maker of the scheme, then (subject to section 121) the relevant references to the authority or authorities include (as well as the local transport authority or authorities) the metropolitan district council, the Secretary of State or the National Assembly for Wales.

(10) For the purpose of subsection (9) the relevant references are those in—

- (a) subsections (2) and (4),
- (b) sections 115 to 120, and
- (c) section 127(7),

and paragraph 27(3) of Schedule 9 to the Road Traffic Regulation Act 1984.

(11) In carrying out their functions under this Part in relation to quality partnership schemes, local transport authorities must co-operate with one another.

(12) In considering whether to make a quality partnership scheme, a local transport authority must have regard to the desirability, in appropriate cases, of making a scheme jointly with another such authority.

### **115 Notice and consultation requirements**

(1) If an authority or authorities propose to make a quality partnership scheme, they must give notice of the proposed scheme in at least one newspaper circulating in the area to which it relates.

(2) The notice must either contain full details of the facilities and standards of services[, and of any registration restrictions and registration criteria,] or state where such details may be inspected.

(3) After giving notice of the proposed scheme, the authority or authorities must consult—

- (a) all operators of local services who would, in the opinion of the authority or authorities, be affected by it,
- (b) such organisations appearing to the authority or authorities to be representative of users of local services as they think fit,
- (c) any other relevant local authority any part of whose area would, in the opinion of the authority or authorities, be affected by it,
- (d) a traffic commissioner,
- (e) the chief officer of police for each police area covering the whole or part of that area, and
- (f) such other persons as the authority or authorities think fit.

(4) For the purpose of subsection (3)(c) the following are relevant local authorities—

- (a) local transport authorities,
- (b) district councils in England,

- (c) London transport authorities, and
- (d) councils in Scotland.

### **116 Making of scheme**

(1) If the authority or authorities decide that it is appropriate to make the scheme, they may make it as proposed or with modifications.

(2) The scheme must specify each of the following—

- (a) the facilities to be provided under it by the authority or authorities,
- (b) the standard of services to be provided under it by operators of local services,
- (bb) any registration restrictions imposed by it and any registration criteria specified in it,
- (c) the date on which it is to come into operation,
- (d) the period for which it is to remain in operation, which must not be less than five years,
- (e) if any facilities or standards of services are to be provided under the scheme as from a date after the scheme comes into operation, the date as from which they are to be so provided.

(3) The scheme may provide that—

- (a) local services specified in it, or
- (b) local services of a class specified in it,

are to be excluded from the scheme, subject to such conditions (if any) as may be specified in it.

(4) The date as from which any particular facilities, or any services of a particular standard, are to be provided must not be earlier than—

- (a) in the case of facilities, the latest of dates A to C (see subsections (4B) to (4D)),
- (b) in the case of services, the later of dates A and D (see subsections (4B) and (4E)),

unless the case falls within subsection (4A).

(4A) If under the scheme—

- (a) particular facilities are to be provided by the authority or authorities, and
- (b) as from the date by which the facilities are to be provided, services of a particular standard are to be provided by operators of local services when using the facilities,

the date as from which the facilities and the services are to be provided must not be earlier than the latest of dates A to D.

(4B) Date A is the date 3 months after the date on which the scheme is made.

(4C) Date B is the date by which, in the opinion of the authority or authorities, it will be reasonably practicable for the authority or authorities to provide the facilities.

(4D) Date C is the date 3 months after—

- (a) the date on which any traffic regulation order required for the provision of any of the facilities is made, or
- (b) if more than one such order is required for their provision, the date on which the last of them is made.

(4E) Date D is the date by which, in the opinion of the authority or authorities, it will be reasonably practicable for operators of local services to provide services of the particular standard.

(6) Not later than 14 days after the date on which the scheme is made, the authority or authorities must give notice—

- (a) in at least one newspaper circulating in the area to which the scheme relates,
- (b) to all operators of local services who would, in the opinion of the authority or authorities, be affected by the scheme, and

(c) to a traffic commissioner.

(7) The notice must—

- (a) either contain full details of the scheme or state where such details may be inspected, and
- (b) if the scheme made is a modified version of that proposed, state that fact.

### **117 Postponement of scheme or of provision of particular facilities or standards of service**

(1) If it appears to the authority or authorities appropriate to do so, they may decide that any of the dates specified in subsection (1A) shall be postponed by such period as they think fit.

A date may not be postponed under this subsection by a period or periods which in total exceed 12 months.

(1A) The dates are—

- (a) the date on which the scheme is to come into operation,
- (b) the date as from which any particular facilities are to be provided under the scheme,
- (c) the date as from which any particular services are to be provided to a particular standard under the scheme.

(2) Before making such a decision they must consult all operators of local services who would, in their opinion, be affected by the scheme.

(3) Not later than 14 days after the date on which any such decision is made they must give notice of the decision—

- (a) in at least one newspaper circulating in the area to which the scheme relates,
- (b) to all operators of local services who would, in their opinion, be affected by the scheme, and
- (c) to a traffic commissioner.

### **118 Effect of scheme**

(1) The authority or authorities must—

- (a) provide each of the specified facilities not later than the date specified for its provision under the scheme, and
- (b) continue to provide it throughout the remainder of the period for which the scheme is in operation.

(2) But subsection (1) does not apply in relation to any period during which the authority or authorities are temporarily unable to provide the facilities owing to circumstances beyond their control.

(3) Nor does it apply in the case of the Secretary of State or the National Assembly for Wales if he or it is unable to provide the facilities owing to the variation or revocation of a traffic regulation order.

(4) The operator of a local service may not use facilities provided under a quality partnership scheme unless—

- (a) he has given a written undertaking to [a traffic commissioner] [that, when using the facilities on any date, he will provide the service to the standard specified in the scheme as it has effect in relation to that date, and
- (b) he provides the service to that standard when using the facilities, except in relation to any period during which he is temporarily unable to do so owing to circumstances beyond his control.

(5) But subsection (4) does not apply in relation to services which are excluded from the scheme as a result of any provision of the scheme made in accordance with section 116(3).

(6) Where the exclusion of a local service from the scheme is made subject to conditions as a result of such a provision, those conditions are to be treated, during any period in which the scheme is in operation, as if they were prescribed particulars registered under section 6 of the Transport Act 1985 (registration of local services) of the service concerned.

### **119 Regulations about schemes involving existing facilities**

(1) The appropriate national authority may by regulations make provision about the specifying in quality partnership schemes of facilities which are already being provided before the schemes are proposed ("existing facilities").

(2) The regulations may in particular—

- (a) provide that existing facilities may not be specified if they were being provided before a date prescribed by, or determined in accordance with, the regulations,
- (b) provide that particular existing facilities or classes of existing facilities may not be specified (whenever they were first provided),
- (c) provide that particular existing facilities or classes of existing facilities may be specified only in circumstances prescribed by the regulations,
- (d) provide that, in circumstances prescribed by the regulations, particular existing facilities or classes of existing facilities may be specified only with the consent of a person prescribed by, or determined in accordance with, the regulations, and
- (e) make provision modifying any provision of sections 115 to 117 in relation to schemes which specify existing facilities.

### **120 Variation or revocation of schemes**

(1) The authority or authorities who made a quality partnership scheme may vary the scheme if they decide that it is appropriate to do so.

(2) The authority or authorities who made a scheme may revoke it before the end of the period for which it would otherwise remain in operation if all persons who have given an undertaking to provide a service to the standard specified in the scheme consent to the revocation of the scheme; and such consent must not be unreasonably withheld.

(3) If the variation of a scheme under subsection (1) would require the making of a traffic regulation order, the variation is subject to the same procedure as the making of a scheme.

(4) Any other variation of a scheme under subsection (1), or the revocation of a scheme under subsection (2), is subject to that procedure, except to the extent that the procedure is modified by regulations made under section 122.

### **121 Variation: supplementary**

(1) The relevant references to the authority or authorities in relation to a quality partnership scheme—

- (a) include a local transport authority if it has been varied so that it relates to that authority's area, but
- (b) do not include a local transport authority if it has been varied so that it no longer relates to that authority's area.

(2) But if (although the scheme does not relate to a local transport authority's area) it would do by reason of a proposed variation, those references (apart from those in section 118) include that authority.

(3) The relevant references (apart from those in section 114(1) and (3)) to the authority or authorities in relation to a quality partnership scheme—

- (a) include a traffic regulation authority if it has been varied so that it specifies traffic regulation facilities, but
- (b) do not include a traffic regulation authority if it has been varied so that it no longer specifies such facilities.

(4) But if (although the scheme does not specify facilities which are traffic regulation facilities in relation to a traffic regulation authority) it would do by reason of a proposed variation, those references (apart from those in section 118) include that authority.

(5) And if (although the scheme specifies facilities which are traffic regulation facilities in relation to a traffic regulation authority)—

- (a) the traffic regulation order, or (where more than one) each of the traffic regulation orders, required to be made by that authority for the provision of those facilities has been revoked, and
- (b) the scheme is proposed to be varied (but not so that it specifies other facilities which are traffic regulation facilities in relation to that authority),

the relevant references (apart from those in section 118) do not include that authority.

(6) For the purposes of this section the relevant references are those in—

- (a) section 114(1) to (4),
- (b) sections 115 to 120, and
- (c) section 127(7),

and paragraph 27(3) of Schedule 9 to the Road Traffic Regulation Act 1984.

(7) In this section "traffic regulation authority" means—

- (a) a metropolitan district council,
- (b) the Secretary of State, or
- (c) the National Assembly for Wales.

(8) For the purposes of this section facilities are traffic regulation facilities, in relation to a traffic regulation authority and a quality partnership scheme, if that authority was required to be a maker of the scheme because it originally specified those facilities or would have been required to be a maker of it had it done so.

## **122 Regulations about schemes**

(1) The appropriate national authority may by regulations make further provision with respect to—

- (a) the procedure to be followed when making, varying or revoking quality partnership schemes,
- (aa) the content or operation of schemes which include a requirement falling within section 114(6)(b) or (6A),
- (b) the local services or classes of local services which must be, or may be, excluded from schemes,
- (c) the conditions which must be, or may be, attached to such exclusions,
- (d) the form and manner in which undertakings are to be given to [a traffic commissioner] in connection with schemes,
- (e) the making of traffic regulation orders in connection with schemes, and
- (f) such other incidental matters in connection with quality partnership schemes as the appropriate national authority thinks fit.

(2) The regulations may in particular make provision with respect to—

- (a) giving notice of proposed schemes or proposed variations or revocation of schemes,
- (b) objections to such proposals,
- (c) the holding of inquiries or hearings into objections,
- (d) modifications of such proposals,
- (e) the form of schemes or variations, and
- (f) giving notice of schemes which have been made or of the variation or revocation of schemes.

(3) As regards schemes which include any requirement mentioned in section 114(6)(b) or (6A), regulations under subsection (1)(a) or (aa) may in particular make provision—

- (a) for section 114(6B) not to apply in such circumstances as may be prescribed,
- (b) requiring such schemes to include provision falling within subsection (4),

- (c) for any requirement as to frequencies, timings or maximum fares to be revised only if there are no admissible objections to the revision from relevant operators,
  - (d) in prescribed circumstances where such schemes, or any provisions of such schemes, are subject to postponement under section 117, for any such requirement not to take effect unless prescribed conditions are satisfied,
  - (e) as to the meaning of "admissible objection" for the purposes of section 114(6B) and paragraph (c) of this subsection,
  - (f) as to the meaning of "relevant operator" for those purposes,
  - (g) as to the determination of any question whether an objection is an admissible objection or an operator is a relevant operator.
- (4) The provision referred to in subsection (3)(b) is provision—
- (a) as respects the setting of frequencies, timings or maximum fares to which the requirements relate,
  - (b) for a minimum interval before any requirements as to frequencies, timings or maximum fares may next be reviewed,
  - (c) for a maximum interval before any such requirements must next be reviewed,
  - (d) as respects other circumstances in which any such requirements must or may be reviewed,
  - (e) as respects revision of any such requirements after a review.
- (5) Subsections (3)(b) and (4) have effect subject to, and in accordance with, the following provisions—
- (a) the revision of requirements as to frequencies, timings or maximum fares under any provision made in accordance with those subsections is not to be regarded as a variation of the scheme for the purposes of section 120 (variation or revocation of scheme), but
  - (b) nothing in those subsections or in paragraph (a) of this subsection shall be taken to derogate from what may be done under or by virtue of that section.
- (6) The provision that may be made by virtue of subsection (3)(g) includes provision for and in connection with
- (a) the appointment of a person ("an adjudicator") to make such a determination as is mentioned in that paragraph;
  - (b) the appointment of a person ("an assessor") to assist an adjudicator in considering any question which appears to arise in relation to such a determination;
  - (c) the payment—
    - (i) by the appropriate national authority to an adjudicator, or
    - (ii) by the appropriate national authority or an adjudicator to an assessor,
 of such remuneration as may be determined by or in accordance with the regulations.

### **123 Guidance about schemes**

(1) The appropriate national authority may issue guidance concerning the carrying out by local transport authorities and metropolitan district councils of their functions under this Part in relation to quality partnership schemes.

(2) Those authorities and councils must have regard to any such guidance.

### *Bus services: franchising schemes*

#### **123A Franchising schemes**

(1) A franchising authority, or two or more franchising authorities acting jointly, may make a franchising scheme covering the whole or any part of their area, or their combined area.

(2) A franchising scheme may not be made unless the franchising authority or authorities have complied with the requirements in sections 123B to 123G.

- (3) A franchising scheme is a scheme—
- (a) under which the authority or authorities identify the local services that they consider appropriate to be provided in an area under local service contracts,
  - (b) by virtue of which those local services may only be provided in that area in accordance with local service contracts (subject to section 123O),
  - (c) by virtue of which the authority or authorities may grant service permits for other local services which have a stopping place in that area (subject to section 123H(4)), and
  - (d) under which the authority or authorities identify additional facilities that they consider appropriate to provide in that area.
- (4) In this Part “franchising authority” means—
- (a) a mayoral combined authority,
  - (b) a county council in England for an area for which there are district councils,
  - (c) a county council in England for an area for which there is no district council,
  - (d) a non-metropolitan district council for an area for which there is no county council,
  - (e) an Integrated Transport Authority for an integrated transport area in England, or
  - (f) a combined authority which is not a mayoral combined authority.

But each of paragraphs (b) to (f) has effect only if the Secretary of State by regulations so provides.

(5) In this Part “local service contract”, in relation to a franchising scheme, means an agreement that complies with section 123K(1) to (3) under which—

- (a) the franchising authority or authorities grant to another person the exclusive right to operate the local services to which the contract relates, and
- (b) the person undertakes to provide the local services on such terms (including in particular as to frequency, fares and standard of service) as may be specified in the agreement.

(6) A local service contract may be made on terms which include provision for the making of payments by the authority or authorities to the person undertaking to provide the local service.

(7) Section 88(1) of the Transport Act 1985 (application to subsidy agreements of sections 89 to 91 of that Act) does not apply in relation to local service contracts.

(8) A franchising authority’s functions under this Part in relation to a franchising scheme must be discharged only by the franchising authority.

### **123B Assessment of proposed scheme**

(1) A franchising authority or authorities that propose to make a franchising scheme covering the whole or any part of their area, or combined area, must prepare an assessment of the proposed scheme.

(2) The assessment must—

- (a) describe the effects that the proposed scheme is likely to produce, and
- (b) compare making the proposed scheme to one or more other courses of action.

(3) The assessment must also include consideration of—

- (a) whether the proposed scheme would contribute to the implementation of—
  - (i) the authority’s or authorities’ policies under section 108(1)(a), and
  - (ii) other policies affecting local services that the authority or authorities have adopted and published,
- (b) whether the proposed scheme would contribute to the implementation by neighbouring local transport authorities of—
  - (i) those authorities’ policies under section 108(1)(a), and

- (ii) other policies affecting local services that those authorities have adopted and published,
  - (c) how the authority or authorities would make and operate the proposed scheme,
  - (d) whether the authority or authorities would be able to afford to make and operate the scheme,
  - (e) whether the proposed scheme would represent value for money, and
  - (f) the extent to which the authority or authorities are likely to be able to secure that local services are operated under local service contracts.
- (4) Subsections (2) and (3) do not prevent inclusion of other matters.
- (5) The Secretary of State must issue guidance concerning the preparation of an assessment under this section, and that guidance may, in particular, include guidance about methods to be used when assessing a proposed scheme.
- (6) Franchising authorities must have regard to any such guidance.
- (7) In this section “relevant local authority” means—
- (a) a local transport authority,
  - (b) a London transport authority, or
  - (c) a council in Scotland.

### **123C Consent of the Secretary of State and notice**

- (1) A franchising authority or authorities may not prepare an assessment of a proposed franchising scheme under section 123B unless the Secretary of State consents to their doing so.
- (2) The Secretary of State’s consent is not required if the proposed scheme relates only to—
- (a) the area of a mayoral combined authority, or
  - (b) the combined area of two or more mayoral combined authorities.
- (3) The Secretary of State must publish a notice of a consent given under this section.
- (4) Before preparing an assessment of a proposed franchising scheme under section 123B, the authority or authorities must publish, in such manner as they consider appropriate, a notice stating that they intend to prepare such an assessment.

### **123D Audit**

- (1) If, after preparing an assessment of a proposed franchising scheme under section 123B, the authority or authorities wish to proceed with the proposed scheme, they must obtain a report from an auditor on that assessment.
- (2) The auditor’s report must state whether, in the opinion of the auditor—
- (a) the information relied on by the authority or authorities in considering the matters referred to in section 123B(3)(d) or (e) is of sufficient quality,
  - (b) the analysis of that information in the assessment is of sufficient quality, and
  - (c) the authority or authorities had due regard to guidance issued under section 123B in preparing the assessment.
- (3) A person may not act as auditor under this section if the person would be disqualified from acting as local auditor of the accounts of the franchising authority, or any of the franchising authorities, under section 1214 of the Companies Act 2006 as substituted by paragraph 5 of Schedule 5 to the Local Audit and Accountability Act 2014.
- (4) In this section “auditor” means a person or body with a recognised professional qualification, as that term is defined for the purposes of Part 42 of the Companies Act 2006 as modified by Schedule 5 to the Local Audit and Accountability Act 2014.



### **123E Consultation**

(1) This section applies if, after obtaining an auditor's report under section 123D, the authority or authorities wish to proceed with the proposed franchising scheme.

(2) The authority or authorities must—

- (a) publish a consultation document relating to the proposed scheme (see section 123F),
- (b) publish the assessment of the proposed scheme,
- (c) publish the auditor's report on that assessment, and
- (d) give notice of the proposed scheme in such manner as the authority or authorities consider appropriate for bringing it to the attention of persons in the area to which it relates.

(3) A notice under subsection (2)(d) must—

- (a) describe the proposed scheme, and
- (b) state where copies of the proposed scheme and the documents mentioned in subsection (2)(a) to (c) may be inspected.

(4) After publishing a notice under subsection (2)(d), the authority or authorities must consult—

- (a) all persons operating local services in the area or areas to which the proposed scheme relates,
- (b) all other persons holding a PSV operator's licence or a community bus permit who would, in the opinion of the authority or authorities, be affected by the proposed scheme,
- (c) such organisations appearing to the authority or authorities to be representative of users of local services as they think fit,
- (d) any other relevant local authority any part of whose area would, in the opinion of the authority or authorities, be affected by the proposed scheme,
- (e) a traffic commissioner, and
- (f) the chief officer of police for each police area covering the whole or part of an area to which the proposed scheme relates.

(5) In subsection (4)(d) "relevant local authority" means—

- (a) a local transport authority,
- (b) a district council,
- (c) a London transport authority, or
- (d) a council in Scotland.

(6) The authority or authorities may modify the proposed scheme after consulting those persons and organisations.

### **123F Consultation document**

(1) A consultation document under section 123E(2)(a) relating to a proposed franchising scheme must include—

- (a) a description of the area to which the proposed scheme relates,
- (b) a description of areas within that area for which different provision is proposed to be made, if such provision is proposed to be included in the proposed scheme,
- (c) a description of the local services that are proposed to be provided under local service contracts,
- (d) a description of the local services that are proposed to be excepted from regulation arising because of the proposed scheme,
- (e) the date on which the scheme is proposed to be made,
- (f) a description of how persons are proposed to be invited to tender for the provision of local services,

- (g) the date or dates by which it is proposed that local service contracts first be entered into,
- (h) the period or periods it is proposed will expire between the making of local service contracts and the provision of local services under such contracts,
- (i) a statement about how, in conducting the procurement process for the provision of local services, the authority or authorities propose to facilitate the involvement of small and medium sized operators in the provision of local services, and
- (j) the date by which responses to the consultation must be received.

(2) The consultation document must also include a summary of the assessment prepared under section 123B in relation to the proposed scheme.

### **123G Response to consultation**

(1) A franchising authority or authorities that conduct a consultation under section 123E must publish a report setting out—

- (a) the authority’s or authorities’ response to the consultation;
- (b) the authority’s or authorities’ decision on whether to make a franchising scheme covering the whole or any part of their area or combined area.

(2) The authority or authorities must give notice of the report to a traffic commissioner.

(3) If the authority or authorities decide to make a franchising scheme, the report must set out how, in conducting the procurement process for the provision of local services, the authority or authorities will facilitate the involvement of small and medium-sized operators in the provision of local services.

(4) If a franchising authority are a mayoral combined authority, the function of deciding whether to make a proposed franchising scheme is a function of the combined authority exercisable only by the mayor acting on behalf of the combined authority (including in a case where the decision is to make a scheme jointly with one or more other franchising authorities).

### **123H Making and publication of scheme**

(1) If the authority or authorities publishing a report under section 123G have decided to make a franchising scheme covering the whole or any part of their area or combined area, they must make the scheme, and publish it, at the same time as the report under section 123G.

(2) The scheme must specify—

- (a) the area to which the scheme relates,
- (b) the local services intended to be provided under local service contracts,
- (c) the date on which local service contracts relating to local services may first be entered into (subject to subsection (3)(b)), and
- (d) the period that is to expire between the making of a local service contract and the provision of a local service under the contract (subject to subsection (3)(c)).

(3) The scheme may specify—

- (a) areas within the area to which the scheme relates (“scheme subareas”),
- (b) for each scheme sub-area, the date on which a local service contract to provide a local service in that scheme sub-area may first be entered into, and
- (c) for each scheme sub-area, the period that is to expire between the making of a local service contract to provide such a service and the provision of such a service under the contract.

(4) Subject to regulations under section 123U, the scheme may except from regulation arising because of the scheme—

- (a) local services specified in the scheme, and
- (b) local services of a class specified in the scheme.

(5) The scheme may include provision—

- (a) varying or revoking any advanced quality partnership scheme or enhanced partnership scheme which only relates to the area of the authority, or combined area of the authorities, by which the scheme is made, or
- (b) varying any other advanced quality partnership scheme or enhanced partnership scheme to the extent that it so relates.

(6) If provision is made under subsection (5)(b) to vary the advanced quality partnership scheme or enhanced partnership scheme so that it no longer so relates, such of the authorities by which it was made as did not make the franchising scheme—

- (a) may (subject to the provision so made) vary it if they decide that it is appropriate to do so, or
- (b) may revoke it if all persons who have given an undertaking to provide a service to a standard specified in the scheme consent to the revocation of the scheme (which may be taken to have been given if unreasonably withheld).

(7) Section 113G(3) and (4) apply to a variation or revocation of an advanced quality partnership scheme under subsection (5).

### **123I Postponement of local service contracts**

(1) If it appears to the authority or authorities that have made a franchising scheme appropriate to do so, they may decide that—

- (a) the date specified under section 123H(2)(c), or
- (b) a date specified under section 123H(3)(b), is to be postponed (or further postponed).

(2) Before making such a decision they must (if possible) consult—

- (a) persons operating local services who would, in their opinion, be affected by the decision;
- (b) other persons whom, in their opinion, it would be appropriate to consult.

(3) Within a period of 14 days beginning with the date on which any such decision is made they must give notice of the decision—

- (a) in such manner as they consider appropriate for drawing it to the attention of persons in the area to which it relates,
- (b) to all persons operating local services who would, in their opinion, be affected by the decision, and
- (c) to a traffic commissioner.

(4) The notice must include a statement of the reasons for making the decision.

### **123J Effect of local service contracts: registration requirements and provision of services**

(1) Where a franchising scheme has been made, subsections (2) and (3) apply as soon as the effective time of any local service contract to which the franchising scheme relates is reached, subject to subsection (4).

(2) Sections 6 to 9 of the Transport Act 1985 (registration of local services) do not have effect in relation to the area to which the franchising scheme relates.

(3) No local service may be provided in the area to which the franchising scheme relates (if there is a stopping place for the service in that area) unless—

- (a) it is provided under a local service contract,
- (b) it is an interim service (see section 123O), or
- (c) it is provided under a service permit (see section 123P).

(4) If the scheme provides for scheme sub-areas, subsections (2) and (3) apply in relation to each scheme sub-area as soon as the effective time of any local service contract for the provision of a local service in that scheme sub-area is reached, as if references in subsections (2) and (3) to the area to which the scheme relates were references to the scheme subarea.

(5) Subsections (2) and (3) do not apply in relation to—

- (a) a local service which is excepted from regulation arising because of the proposed scheme by any provision of the scheme that is made under section 123H(4), or
  - (b) the use of a vehicle under a permit granted under section 22 of the Transport Act 1985.
- (6) If it appears to a franchising authority that—
- (a) a person is operating or has operated a local service in contravention of subsection (3), and
  - (b) in operating that local service, the person is failing or has failed to take all reasonable precautions and to exercise all due diligence to avoid contravening subsection (3), the authority must inform a traffic commissioner.

### **123K Local service contracts**

(1) If a franchising scheme covers the whole or part of the combined area of two or more franchising authorities, a local services contract for a local service specified in the scheme is to be entered by the authorities acting jointly.

(2) A franchising authority or authorities may only enter into a local service contract with a person who is the holder of either—

- (a) a PSV operator’s licence, or
- (b) a community bus permit.

(3) But subsection (2)(a) does not include a licence to which a condition is attached under section 26 of the Transport Act 1985 (power of traffic commissioner to attach conditions to licences) prohibiting the holder from using vehicles under the licence to provide local services of all descriptions or of any description to which the condition relates.

(4) A person may not provide a local service under a local service contract until the effective time is reached, subject to section 123L.

(5) The effective time, in relation to a local service contract, is—

- (a) the end of the period of six months beginning with the date on which the authority or authorities enter into the local service contract, or
- (b) if the scheme provides for a longer period beginning with that date, the end of that longer period.

(6) If—

- (a) a franchising authority or authorities enter into a local service contract, and
- (b) the contract is—
  - (i) the first contract for the provision of a local service specified in the scheme that is entered into, or
  - (ii) for any scheme sub-area, the first contract for the provision of a local service specified in relation to that scheme sub-area that is entered into, they must give notice of the contract to a traffic commissioner.

(7) A notice under subsection (6) must be given within a period of 14 days beginning with the date on which the local services contract in question is entered into.

### **123L Exceptions to section 123K**

(1) Section 123K(4) does not apply in relation to a local service contract if the authority or authorities determine that action is urgently required for the purpose of—

- (a) maintaining an existing service,
- (b) securing the provision of a service in place of a service which has ceased to operate, or
- (c) securing the provision of a service to meet any public transport requirement which has arisen unexpectedly and ought in the opinion of the authority to be met without delay.

(2) A determination under subsection (1) must be made at or before the time that the authority or authorities enter into the contract.

### **123M Variation of scheme**

(1) The franchising authority or authorities operating a franchising scheme may vary, or acting jointly may vary, the scheme.

(2) If the authority or authorities decide to vary a franchising scheme, the authority or authorities must—

- (a) publish a notice of the decision, and
- (b) give notice of the decision to a traffic commissioner.

(3) The notice of the decision must state the date on which the variations of the scheme are to have effect.

(4) The date must fall after a period of six months beginning with the date on which notice of the decision is published.

(5) The notice must be published, and notice must be given to a traffic commissioner, within a period of 14 days beginning with the date on which the decision was made.

(6) If a franchising authority are a mayoral combined authority, the function of deciding whether to make a proposed variation is a function of the combined authority exercisable only by the mayor acting on behalf of the combined authority (including in a case where the decision is to act jointly to vary a scheme).

(7) The variation of a franchising scheme is subject to the same procedure as the making of a franchising scheme, except that—

- (a) the procedure may be modified or excluded in its application to the variation of a scheme by regulations under section 123U,
- (b) sections 123B, 123C, 123D and 123F(2) do not apply, and
- (c) section 123G(3) does not apply.

(8) If the variation of a franchising scheme would involve adding an area to the area to which the scheme relates, subsection (7) has effect in relation to the variation but without subsection (7)(b).

### **123N Revocation of scheme**

(1) A franchising authority or authorities operating a franchising scheme may revoke, or acting jointly may revoke, the franchising scheme.

(2) The authority or authorities may revoke the scheme only if they are satisfied that—

- (a) local services in the area to which the scheme relates are likely to be better if the scheme did not apply,
- (b) the continued operation of the scheme is likely to cause financial difficulties for the authority or any of the authorities, or
- (c) the burdens of continuing with the scheme are likely to outweigh the benefits of doing so.

(3) If the authority or authorities decide to revoke a franchising scheme, the authority or authorities must—

- (a) publish a notice of the decision, and
- (b) give notice of the decision to a traffic commissioner.

(4) The notice of the decision must state the date on which the revocation is to have effect.

(5) The date of revocation must fall after a period of six months beginning with the date on which notice of the decision is published.

(6) The notice must be published, and notice must be given to a traffic commissioner, within a period of 14 days beginning with the date on which the decision was made.

(7) If a franchising authority are a mayoral combined authority, the function of deciding whether to make a proposed revocation is a function of the combined authority exercisable only by the mayor acting on behalf of the combined authority (including in a case where the decision is to act jointly to revoke a scheme).

(8) The revocation of a franchising scheme is subject to the same procedure as the making of a franchising scheme, except that—

- (a) the procedure may be modified or excluded in its application to the revocation of a scheme by regulations under section 123U, and
- (b) section 123G(3) does not apply.

### **123O Interim services and replacement services**

(1) This section applies if—

- (a) a franchising authority or authorities have entered into a local service contract with another person (“the operator”) about providing a local service (“the original service”) for a period, and
- (b) the operator fails to provide the original service or ceases to provide the original service before the end of the period.

(2) The authority, or any one of the authorities, may provide a local service (an “interim service”) in the place of the original service or a part of it.

(3) Subsection (2) has effect notwithstanding any prohibition, restriction or limitation on the power of the authority to provide local services contained in any other enactment, apart from the restriction in section 21 of the Bus Services Act 2016.

(4) A franchising authority providing an interim service must have a PSV operator’s licence to which no condition is attached under section 26 of the Transport Act 1985 (power of traffic commissioner to attach conditions to licence) prohibiting the authority from using vehicles under the licence to provide services of that description.

(5) A franchising authority may not provide an interim service after the end of the period of six months beginning with the day on which the authority begins to provide the service, subject to subsection (7).

(6) If—

- (a) an interim service is provided, and
- (b) the authority or authorities decide to enter into a local service contract with another person for the provision of a local service (a “replacement service”) that would replace the original service or a part of it,

section 123K(4) does not apply in relation to the provision of the replacement service.

(7) If the authority or authorities enter into a local service contract for the provision of a replacement service, the authority or the authority providing the interim service may continue to provide it until the replacement service begins to be provided.

(8) An interim service or replacement service need not be identical to the original service, or the part of the original service, that is replaced by the interim service or the replacement service (and such a change is not to be regarded as a variation of the scheme for the purposes of section 123M).

(9) In this section “enactment” includes an enactment comprised in subordinate legislation (within the meaning of the Interpretation Act 1978).

### **123P Service permits**

(1) This section applies where a franchising scheme covers the whole or part of the area or combined area of a franchising authority or authorities.

(2) The authority or authorities, acting jointly, may grant a permit (a “service permit”) authorising a person to provide a local service in the area to which the scheme relates.

### **123Q Application for service permit**

(1) An application for a service permit authorising a person to provide a particular local service in an area to which a franchising scheme relates must be made in such manner as the authority or authorities operating the scheme may determine.

(2) An application must be accompanied by such information as the authority or authorities operating the scheme may specify.

(3) If the authority or authorities so require, an application for a service permit must be accompanied by a fee for processing the application of an amount that is determined in accordance with regulations made by the Secretary of State.

(4) Regulations under subsection (3) may specify the maximum amount of the fee. The authority or authorities must grant the service permit applied for if they are satisfied that—

- (a) the proposed service will benefit persons making journeys on local services in the area to which the scheme relates, and
- (b) the proposed service will not have an adverse effect on any local service that is provided under a local service contract in the area to which the scheme relates.

(5) The authority or authorities may not grant the service permit applied for if they are not satisfied as to the matters in subsection (5)(a) and (b).

(6) If the authority or authorities do not grant a service permit, they must give notice of their reasons to the applicant within a period of ten days beginning with the date on which they decide not to grant the service permit.

### **123R Conditions**

(1) A franchising authority or authorities may publish a notice specifying the conditions, or descriptions of conditions, that they may attach to a service permit.

(2) A franchising authority or authorities may—

- (a) withdraw a notice under subsection (1), and
- (b) if an earlier notice under subsection (1) is withdrawn, publish another notice under subsection (1).

(3) A franchising authority or authorities may only specify in a notice under subsection (1) conditions that are specified, or are of a description specified, in regulations made by the Secretary of State.

(4) Regulations under subsection (3) may in particular provide for conditions requiring holders of service permits to participate in ticketing arrangements.

(5) Before the authority or authorities publish a notice under subsection (1) (or withdraw such a notice), they must consult—

- (a) persons operating local services in the area to which the scheme relates, and
- (b) other persons whom, in their opinion, it would be appropriate to consult.

(6) If a notice under subsection (1) is published, the franchising authority or authorities may attach to—

- (a) a service permit granted by them after the notice is published, or
- (b) a service permit already granted by them,

conditions, or conditions of a description, specified in the notice.

(7) If a notice under subsection (1) is withdrawn, conditions attached to service permits granted by the franchising authority or authorities before it was withdrawn cease to have effect (subject to being attached again under subsection (6)(b)).

(8) If the authority or authorities grant a service permit with conditions, they must give notice of their reasons for doing so to the applicant within a period of 14 days beginning with the date on which they grant the service permit with those conditions.

(9) If the authority or authorities attach conditions to a service permit after it is granted, they must give notice of their reasons for doing so to the holder of the service permit within a period of 14 days beginning with the date on which they attach those conditions.

### **123S Revocation and suspension**

(1) A franchising authority or authorities may revoke or suspend a service permit granted by them.

(2) The grounds on which a franchising authority or authorities may revoke or suspend a service permit are—

- (a) that a matter in section 123Q(5)(a) or (b) is not satisfied as regards the service to which the service permit relates,
- (b) that the holder of the service permit has failed to comply with a condition attached to the service permit, and
- (c) that the public would be endangered if the service continued to operate.

(3) The Secretary of State may by regulations make provision about the period of notice that must expire before a revocation or suspension takes effect.

(4) The regulations may, in particular, enable a franchising authority or authorities to revoke or suspend a service permit with immediate effect if the permit is revoked or suspended on the ground mentioned in subsection (2)(c).

(5) A service permit is of no effect during a period of suspension.

### **123T Appeals**

(1) A person whose application for a service permit is refused may appeal against the refusal.

(2) A person who is granted a service permit with conditions may appeal against the attaching of the conditions or any of them.

(3) A person to whose service permit conditions are attached after the service permit is granted may appeal against the attaching of the conditions or any of them.

(4) A person whose service permit is revoked or suspended may appeal against the revocation or suspension.

(5) An appeal under subsection (1), (2), (3) or (4) is to be made to a traffic commissioner.

(6) On an appeal under subsection (1), (2), (3) or (4), a traffic commissioner may—

- (a) uphold the decision,
- (b) quash the decision, or
- (c) substitute a decision for the decision made.

(7) The Secretary of State may by regulations make provision about appeals under this section including, in particular, provision—

- (a) as to the time within which an appeal to a traffic commissioner must be brought,
- (b) enabling a traffic commissioner to hold a hearing,
- (c) requiring a traffic commissioner to hold a hearing if requested by the appellant,
- (d) as to the time within which a hearing must be held, and
- (e) as to the time within which an appeal must be determined.

(8) A person may appeal to the Upper Tribunal against a decision of a traffic commissioner under subsection (6).

(9) For the purposes of section 13(2) of the Tribunals, Courts and Enforcement Act 2007 (appeals to Court of Appeal etc against decisions of the Upper Tribunal) the following persons are to be treated as parties to a case—

- (a) the person who appealed under subsection (1), (2), (3) or (4),
- (b) the franchising authority or authorities whose decision was appealed, and
- (c) a traffic commissioner.



### **123U Regulations about schemes**

- (1) The Secretary of State may by regulations make further provision with respect to—
  - (a) the procedure to be followed when making, varying or revoking franchising schemes,
  - (b) the local services or classes of local services which are to be, or may be, excepted from regulation arising because of the scheme, and
  - (c) such other incidental matters in connection with franchising schemes as the Secretary of State thinks fit.
- (2) The regulations may in particular make provision with respect to—
  - (a) giving notice of proposed schemes or the proposed variation or revocation of schemes,
  - (b) modifications of such proposals,
  - (c) the form of schemes or variations, and
  - (d) giving notice of schemes which have been made or of the variation or revocation of schemes.
- (3) The Secretary of State may by regulations make further provision with respect to service permits.
- (4) The Secretary of State may also make regulations modifying or excluding the application of provisions of this Part, so far as relating to franchising schemes, in cases where a franchising authority, or two or more franchising authorities acting jointly—
  - (a) propose or decide to vary or revoke a scheme under section 123M or 123N, or
  - (b) having varied a scheme under section 123M, propose or decide to postpone a date on which a local service contract to provide a local service specified in the scheme may first be entered into.

### **123V Transitional provision about schemes**

- (1) The Secretary of State may by regulations make such transitional provision as the Secretary of State considers appropriate in connection with—
  - (a) the making of franchising schemes,
  - (b) the application of section 123J in relation to an area (effect of local services contracts: sections 6 to 9 of the Transport Act 1985 and provision of services),
  - (c) the variation of franchising schemes, and
  - (d) the revocation of franchising schemes.
- (2) The regulations may in particular provide that in prescribed circumstances—
  - (a) any provision of sections 6 to 9 of the Transport Act 1985 (registration of local services), or of sections 89 to 92 of that Act (obligation to invite tenders etc), which would otherwise have effect is not to have effect or is to have effect with such modifications as may be prescribed, or
  - (b) any such provision which would not otherwise have effect is to have effect or is to have effect with such modifications as may be prescribed,

in relation to the whole or any part of the area to which the scheme relates.

(3) Regulations made by virtue of subsection (2) may in particular provide for the period in section 6(8)(a) of the Transport Act 1985 to be, for applications to vary or cancel the registration of services that have one or more stopping places in the area to which a franchising scheme relates, the period specified in a notice issued by the authority or authorities that made the franchising scheme.

- (4) The regulations may impose requirements in relation to notices issued as mentioned in subsection (3) that include (but are not limited to) requirements—
  - (a) as to the time when the notice may be issued,
  - (b) as to the publication of the notice,

- (c) as to sending a copy of the notice to a traffic commissioner, and
- (d) as to the period, not exceeding 112 days, that may be specified in the notice.

(5) Regulations made by virtue of subsection (2) may in particular provide for cases where local services continue to be provided in an area under local service contracts after a franchising scheme—

- (a) is revoked, or
- (b) is varied so as no longer to relate to that area.

(6) The regulations may—

- (a) prohibit the registration of a service, or a variation of the registration of a service, under section 6 of the Transport Act 1985 so far as the service, or the service as varied, would be provided in that area, except in a case where the service, or the service as varied, would be a service that, under the scheme as it had effect before it was revoked or varied, could have been provided in that area under a local services contract, and
- (b) require a traffic commissioner to register a service on an application by a person who, immediately before the scheme was revoked or varied, provided the same service under a service permit.

(7) Any regulations made by virtue of subsection (1)(a) are not to have effect in the case of any franchising scheme as respects any time before the making of the scheme.

### **123W Guidance about schemes**

(1) The Secretary of State may issue guidance concerning the exercise by franchising authorities of their functions under this Part in relation to franchising schemes.

(2) Franchising authorities must have regard to any such guidance.

### **123X Local service contracts: application of TUPE**

(1) Subsection (3) applies to a situation in which—

- (a) at the effective time of a local service contract, local services cease to be provided by a person (the “former operator”) in—
  - (i) the area to which the relevant franchising scheme relates, or
  - (ii) in the case of a franchising scheme which provides for scheme sub-areas, the relevant scheme sub-area,in accordance with section 123J(3), and
- (b) at the same time, a person (the “new operator”) begins to provide local services in that area under that local service contract.

(2) Subsection (3) also applies to a situation in which—

- (a) local services which, at the effective time of a local service contract, a person (the “former operator”) would be required by section 123J(3) to cease providing in—
  - (i) the area mentioned in subsection (1)(a)(i), or
  - (ii) the area mentioned in subsection (1)(a)(ii) (as the case may be),cease to be provided by the former operator before the effective time of that local service contract, and
- (b) at the same time as those local services cease to be provided by the former operator, a person (the “new operator”) begins to provide local services in that area under an agreement which the authority or authorities who made the relevant franchising scheme entered into by reason of the cessation of the local services referred to in paragraph (a).

(3) Any situation to which this subsection applies is to be treated as a relevant transfer for the purposes of the Transfer of Undertakings (Protection of Employment) Regulations 2006 (“TUPE”) (whether or not TUPE would apply apart from this subsection).

(4) For the purposes of TUPE, the organised grouping of employees that is subject to the relevant transfer consists of those employees of the former operator whose employment is principally connected with the provision of the local services referred to in subsection (1)(a) or (as the case may be) the local services referred to in subsection (2)(a).

(5) Any situation which by virtue of this section is treated as a relevant transfer for the purposes of TUPE is also to be treated as a relevant transfer within the meaning of TUPE for the purposes of—

- (a) sections 257 and 258 of the Pensions Act 2004, and
- (b) any regulations made under section 258 of that Act.

(6) The Secretary of State may make regulations supplementing the provision made by this section.

(7) The provision that may be made by regulations under subsection (6) includes—

- (a) provision for determining, for the purposes of subsection (4), whether a person's employment is principally connected with the provision of any particular local services (including provision for or in connection with the appointment of a person to make such determination);
- (b) provision for determining, in the case of any particular organised grouping of employees, the particular new operator who is to be the transferee for the purposes of TUPE (including provision for or in connection with the appointment of a person to make such determination);
- (c) provision requiring any person operating local services in the area to which a franchising scheme relates to provide the authority or authorities who made the scheme with such information as may be prescribed, at such time as may be prescribed, about such of that person's employees as would fall within subsection (4) if the person ceased to provide those services in the circumstances described in subsection (1)(a);
- (d) provision requiring the authority or authorities who made a franchising scheme to provide all persons operating local services in the area to which the scheme relates with such information as may be prescribed, at such time as may be prescribed, so as to enable such persons to comply with any requirement imposed by virtue of paragraph (c) of this subsection;
- (e) provision requiring the authority or authorities who made a franchising scheme to ensure that any local service contract entered into with a person under the scheme, or any other agreement made with a person for the provision of local services in the area to which the scheme relates, is made on terms—
  - (i) that require the person, in the event of there being any transferring employees, to secure pension protection for every transferring employee, or every transferring employee of a prescribed description, who as an employee of the former operator had rights to acquire pension benefits, and
  - (ii) that, so far as relating to the securing of pension protection for a transferring employee, are enforceable by the employee.

(8) For the purposes of this section—

- (a) “transferring employee” means an employee of a former operator whose contract of employment becomes, either by virtue of TUPE or by virtue of this section, a contract of employment with a new operator;
- (b) “pension protection” is secured for a transferring employee if after the change of employer referred to in paragraph (a)—
  - (i) the employee has, as an employee of the new operator, rights to acquire pension benefits, and
  - (ii) those rights are of such description as is prescribed by regulations.

(9) The Secretary of State must exercise the power conferred by this section to make regulations containing provision falling within subsection (7)(e) so as to ensure—

- (a) that pension protection is required to be secured for every transferring original employee who, as an employee of the original operator, had rights to acquire pension benefits, and
- (b) that the rights to acquire pension benefits which a transferring original employee has as an employee of the new operator by virtue of paragraph (a) are rights which—
  - (i) are the same as the rights the transferring original employee had as an employee of the original operator, or
  - (ii) under provision made by regulations, count as being broadly comparable to, or better than, those rights.

(10) For the purposes of subsection (9)—

“transferring original employee” means a transferring employee—

- (a) who immediately before the relevant date was employed by a person (the “original operator”) providing local services in the area to which the relevant franchising scheme relates, and
- (b) whose contract of employment—
  - (i) was, from that date until the change of employer referred to in subsection (8)(a), a contract of employment with the original operator, or
  - (ii) on each occasion when the employee was subject to a relevant transfer became, either by virtue of TUPE or by virtue of this section, a contract of employment with a person providing local services in the area referred to in paragraph (a);

“relevant date”, in relation to a franchising scheme, means—

- (a) the date on which the scheme was made, or
- (b) where—
  - (i) the local services being provided by the original operator were not subject to the scheme when it was made, and
  - (ii) as a result of the variation of the scheme, those services became subject to the scheme,
 the date on which that variation was made;

“relevant transfer” means anything that is, or is to be treated as, a relevant transfer for the purposes of TUPE.”

*Bus services: quality contracts schemes in Wales*

**124 Quality contracts schemes**

(1) A local transport authority **for an area in Wales**, or two or more such authorities acting jointly, may make a quality contracts scheme covering the whole or any part of their area, or combined area, if they are satisfied that—

- (a) the proposed scheme will result in an increase in the use of bus services (see subsection (9B)) in the area to which the proposed scheme relates,
- (b) the proposed scheme will bring benefits to persons using local services in the area to which the proposed scheme relates, by improving the quality of those services,
- (c) the proposed scheme will contribute to the implementation of the local transport policies of the authority or authorities,
- (d) the proposed scheme will contribute to the implementation of those policies in a way which is economic, efficient and effective, and
- (e) any adverse effects of the proposed scheme on operators will be proportionate to the improvement in the well-being of persons living or working in the area to which the proposed scheme relates and, in particular, to the achievement of the objectives mentioned in paragraphs (a) to (d).

~~(1A) — [An Integrated Transport Authority or combined authority, or an Integrated Transport Authority or combined authority jointly with one or more other local transport authorities, may also make a quality contracts scheme covering the whole or part of their area or combined area if they are satisfied —~~

~~(a) — that making a quality contracts scheme is an appropriate way of securing that the transport needs of the potential users of a relevant railway service that has been or is to be reduced or discontinued are met;~~

~~(b) — that the making of the scheme will contribute, in an appropriate way, to meeting the transport needs of other persons living, working or studying in the localities served by that service;~~

~~(c) — that the scheme is compatible with the [local transport policies] of [the Integrated Transport Authority] [or the combined authority] who make the scheme or (as the case may be) of each of the authorities who join in making the scheme; and~~

~~(d) — that the scheme will meet the needs of the persons mentioned in paragraphs (a) and (b) in a way which is economic, efficient and effective.~~

~~(1B) — A local transport authority may join in making a scheme under subsection (1A) by reference to the reduction or discontinuance of a railway passenger service only if~~

~~(a) — they are the Integrated Transport Authority or combined authority, or one of the Integrated Transport Authorities or combined authorities by reference to which that service is a relevant railway service in relation to the scheme;~~

~~(b) — the relevant railway service by reference to which the scheme is made is or was operating in the authority's area; or~~

~~(c) — the persons who live, work or study in localities served by that service include persons living, working or studying in that area.~~

(2) A quality contracts scheme may not be made unless the authority or authorities—

(a) have complied with the requirements of section 125, and

(b) ~~in the case of a scheme for an area in Wales,~~ have obtained the approval of the Welsh Ministers in accordance with section 126, and

~~(c) in the case of a scheme for an area in England, meet the requirements of subsection (2A).~~

~~(2A) — The requirements are that the authority or authorities—~~

~~(a) have published under section 126C(5) the request which they sent to the QCS board under section 126C(4), and~~

~~(b) publish, in accordance with section 127(1A), a response prepared by them to the report published by the QCS board under section 126D(5) in relation to the scheme.~~

(3) A quality contracts scheme is a scheme under which

(a) the authority or authorities determine 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

(b) local services may only be provided in that area in accordance with quality contracts (subject to section 127(4) and section 132C).

(4) In this Part "quality contract", in relation to a quality contracts scheme, means an agreement entered into under section 130 or 131 under which—

(a) the authority or authorities grant to another person the exclusive right to operate the local services to which the contract relates, and

(b) that person undertakes to provide the services on such terms (including in particular as to frequency, fares and standard of service) as may be specified in the agreement.

(5) A quality contract may be made on terms—

(a) which include provision for the making of payments by the authority or authorities to the person undertaking to provide the local service, and

(b) requiring one or more of the parties to provide additional facilities or services.

(6) Section 88(1) of the Transport Act 1985 (application to subsidy agreements of sections 89 to 92 of that Act) does not apply in relation to quality contracts.

(7) The authority or authorities must keep under review the extent to which quality contracts entered into by them are complied with.

(8) In carrying out their functions under this Part in relation to quality contracts schemes, local transport authorities must co-operate with one another.

(9) In considering whether to make a quality contracts scheme, a local transport authority **for an area in Wales** must have regard to the desirability, in appropriate cases, of making a scheme jointly with another **such** authority.

~~(9A) The power to make a scheme jointly may be exercised only if—~~

~~(a) all the authorities are local transport authorities for areas in England, or~~

~~(b) all the authorities are local transport authorities for areas in Wales.~~

(9B) The reference in subsection (1)(a) to increasing the use of bus services includes a reference to reducing, arresting or reversing decline in the use of bus services.

(10) . . .

~~(11) In this section "relevant railway service"—~~

~~(a) in relation to a scheme made by a single Integrated Transport Authority or combined authority acting alone, means—~~

~~(i) a railway passenger service operating entirely within the area of that Authority; or~~

~~(ii) the part of a railway passenger service so operating;~~

~~(b) in relation to a scheme made jointly by more than one local transport authority, means—~~

~~(i) a railway passenger service operating wholly or primarily within the area of [an Integrated Transport Authority] [or combined authority] who join in making the scheme;~~

~~(ii) a railway passenger service operating wholly or primarily within the combined area of two or more Integrated Transport Authorities or combined authorities who join in making the scheme; or~~

~~(iii) the part of a railway passenger service operating as mentioned in sub-paragraph (i) or (ii).~~

~~(12) In this section—~~

~~"potential users", in relation to a relevant railway service, means persons who (but for the reduction or discontinuance of the service) would have made use of it; and~~

~~"railway passenger service" has the same meaning as in the Railways Act 1993 (c 43) (see section 83(1) of that Act).~~

~~(13) For the purposes of references in this section to where a railway passenger service or part of such a service operates—~~

~~(a) a service shall be treated as operating at each of the places where stops are made at stations for the purpose of allowing passengers to join or leave the service; and~~

~~(b) a part of a service is any part of that service so far as it operates at any one or more of those places.~~

## 125 Notice and consultation requirements

(1) If an authority or authorities propose to make a quality contracts scheme, they must—

(a) publish, in such manner as they think fit, a consultation document complying with subsection (1A),

(b) supply a copy of that document to each of the persons mentioned in subsection (3), **and**

(c) give notice in accordance with subsection (2) of the proposed scheme in at least one newspaper circulating in the area to which it relates, **and**

- (d) ~~if the proposed scheme relates to an area in England, send a copy of that notice to the senior traffic commissioner as soon as reasonably practicable after its publication.~~
- (1A) The consultation document mentioned in subsection (1)(a) must include—
- (a) a description of the proposed scheme;
  - (b) a statement of the reasons why the authority or authorities are satisfied that the conditions in subsection (1) ~~or, as the case may be, (1A)~~ of section 124 are met;
  - (c) a description of any arrangements which the authority or authorities intend to make (including arrangements with other authorities or other persons) for or in connection with the implementation of the scheme;
  - (d) a statement of how any costs which the authority or authorities expect to incur under the scheme are to be defrayed;
  - (e) a declaration by the chief finance officer or officers of the authority or authorities that, after taking into account—
    - (i) any estimated income from fares, and
    - (ii) any grants from Ministers of the Crown or government departments,any remaining funding required to implement the scheme can be provided from other resources available to the authority or authorities;
  - (f) the date by which any written responses to the consultation must be submitted to the authority or authorities.
- (1B) The description of the proposed scheme contained in the consultation document in accordance with subsection (1A)(a) must include—
- (a) an outline of the local services which are proposed to be provided under it;
  - (b) a statement of any proposed exclusions from the scheme by virtue of section 127(4).
- (1C) In subsection (1A)(e) "chief finance officer", in relation to a local transport authority, means that officer of the authority who is responsible under—
- (a) section 151 of the Local Government Act 1972, or
  - (b) section 73 of the Local Government Act 1985,
- for making arrangements for the proper administration of the financial affairs of the authority.
- (2) The notice must—
- (a) describe the proposed scheme, and
  - (b) state where a copy of the scheme and the consultation document may be inspected, and
  - (c) state their reasons for wishing to make the scheme.
- (3) After giving notice of the proposed scheme, the authority or authorities must consult—
- (a) all persons operating local services in the area to which it relates,
  - (b) all other persons holding a PSV operator's licence or a community bus permit who would, in the opinion of the authority or authorities, be affected by it,
  - (c) such organisations appearing to the authority or authorities to be representative of users of local services as they think fit,
  - (d) any other relevant local authority any part of whose area would, in the opinion of the authority or authorities, be affected by it,
  - (e) ~~if the proposed scheme relates to an area in Wales,~~ a traffic commissioner,
  - (f) the chief officer of police for each police area covering the whole or part of the area to which the proposed scheme relates, and
  - (g) such other persons as the authority or authorities think fit.
- (4) For the purpose of subsection (3)(d) the following are relevant local authorities—
- (a) local transport authorities,



- (b) district councils in England,
  - (c) London transport authorities, and
  - (d) councils in Scotland.
- (5) The authority or authorities may modify the proposed scheme following those consultations.

## 126 Approval of proposed schemes for areas in Wales

~~(A1) This section has effect in any case where the scheme or proposed scheme relates to an area in Wales.~~

(1) If, having complied with the requirements of section 125, the authority or authorities wish to proceed with the proposed scheme, they must apply to the appropriate national authority for its approval.

(2) The application must include—

- (a) their reasons for wishing to make the scheme, and
- (b) such other information as the appropriate national authority may reasonably require.

(3) Any person who was consulted, or who is aggrieved at not being consulted, under section 125(3) may make written representations to the appropriate national authority about the scheme.

(4) The appropriate national authority may approve the proposed scheme, with or without modifications, if it is satisfied that—

- (a) the conditions set out in paragraphs (a) to (e) of section 124(1) or (as the case may be) paragraphs (a) to (d) of section 124(1A) are met, and
- (b) it is in the interests of the public that the scheme is made.

(5) If the appropriate national authority proposes to approve the scheme with modifications, it must first inform the authority or authorities and they must—

- (a) consult such of the persons they consulted under section 125(3) as would, in their opinion, be affected by those modifications, and
- (b) inform the appropriate national authority as to the outcome of that consultation.

(6) After being informed of that outcome the appropriate national authority may approve the scheme either with those modifications or without modifications.

## ~~126A Boards for proposed schemes for areas in England~~

~~(1) Where the senior traffic commissioner receives a copy of a notice sent by the authority or authorities pursuant to section 125(1)(d), a board (a "QCS board") is to be constituted in accordance with the provisions of this Part to discharge the functions of such a board in relation to the proposed scheme.~~

~~(2) The board is to consist of 3 members.~~

~~(3) The members shall be~~

- ~~(a) one traffic commissioner ("the Commissioner");~~
- ~~(b) two persons drawn from a panel of persons appointed by the Secretary of State for the purposes of this section.~~

~~(4) The Commissioner is to chair the board.~~

~~(5) Within a prescribed period of receiving the copy of the notice mentioned in subsection (1), the senior traffic commissioner is to —~~

- ~~(a) designate the traffic commissioner who is to be the Commissioner in the case of the particular board;~~
- ~~(b) give notice of that designation to the authority or authorities, in accordance with the prescribed procedure, identifying the person designated;~~
- ~~(c) publish, in such manner as may be prescribed, notice of the designation, identifying the person designated.~~



~~(6) The traffic commissioner who is to be so designated is that one of the traffic commissioners whom the senior traffic commissioner considers most appropriate in all the circumstances of the particular case by reason of any particular knowledge or experience that the traffic commissioner may have.~~

~~This is subject to subsections (7) and (8).~~

~~(7) If the senior traffic commissioner considers that the traffic commissioner who would otherwise fall to be designated to be the Commissioner ought not to be so designated—~~

- ~~(a) because of the traffic commissioner's illness, incapacity, absence or impending vacation of office, or~~
- ~~(b) because the traffic commissioner is prevented from being the Commissioner by subsection (8);~~

~~the senior traffic commissioner is to designate a different traffic commissioner to be the Commissioner.~~

~~(8) A traffic commissioner whose ability to act impartially in the case of any particular scheme is, in the opinion of that traffic commissioner, in any way impaired must not act as the Commissioner in relation to that scheme.~~

~~(9) If the senior traffic commissioner is unable to discharge the duty to make a designation under subsection (5), the duties of the senior traffic commissioner under that subsection are to be discharged by the Secretary of State instead.~~

~~(10) The persons who are to be members of the board by virtue of subsection (3)(b) are to be designated in such manner and at such time as may be prescribed.~~

~~(11) The Secretary of State shall pay to each person appointed under subsection (3)(b) such remuneration in respect of the person's services as may be determined by the Secretary of State with the consent of the Treasury.~~

~~(12) In this section "prescribed" means prescribed in regulations under section 126E or 133.~~

#### **~~126B Advice by boards or their Commissioners~~**

~~(1) This section applies at any time after the traffic commissioner who is to chair the QCS board for the proposed scheme has been designated under section 126A.~~

~~(2) The QCS board may give advice about matters of a procedural nature to any person who requests it before the end of the appropriate period.~~

~~(3) For the purposes of subsection (2), the end of the appropriate period is—~~

- ~~(a) the date on which a scheme is made, or~~
- ~~(b) if no scheme is made, the date on which the authority or authorities give notice to the board under section 126C(7) that they have decided not to proceed with the proposed scheme.~~

~~(4) The board may not, under subsection (2), give advice about the merits of the proposed scheme.~~

~~(5) If the Secretary of State thinks it appropriate to do so in connection with securing propriety in the giving of advice under subsection (2), the Secretary of State may by regulations make provision about the giving of advice under that subsection (but not about what the advice is to be).~~

~~(6) In particular, regulations under subsection (5) may make provision that has the effect that—~~

- ~~(a) a person's request for advice under subsection (2), or~~
- ~~(b) advice given under subsection (2) to a person,~~

~~must be, or may be, disclosed by the board to persons other than that person or to the public generally.~~

~~(7) In relation to requests received at any time before the members of the board have been designated, the functions of the board under this section are exercisable on behalf of the board by the traffic commissioner who has been designated to chair the board.]~~

### **~~126C Requests for boards to begin consideration etc of proposed schemes~~**

- ~~(1) This section applies in any case where—~~
- ~~(a) the proposed scheme is for an area in England, and~~
  - ~~(b) the authority or authorities have complied with the requirements of section 125(1) to (3).~~
- ~~(2) If the authority or authorities wish to proceed with the proposed scheme, they must send each of the following to the QCS board as soon as reasonably practicable after the end of the consultation period—~~
- ~~(a) copies of all written responses received from the persons consulted,~~
  - ~~(b) information about representations made orally at meetings or other events held by the authority or authorities during the consultation period,~~
  - ~~(c) a summary of the action which the authority or authorities have taken to comply with the requirements of section 125(1) to (3).~~
- ~~(3) The authority or authorities must have complied with subsection (2) before they send the board a request under subsection (4).~~
- ~~(4) When the authority or authorities consider it appropriate to do so, they are to send to the board a written request for it to begin the performance of its functions under section 126D in relation to the proposed scheme.~~
- ~~(5) If the authority or authorities send the board a request under subsection (4), they must also—~~
- ~~(a) publish the request,~~
  - ~~(b) send to the board a copy of the proposed scheme that it is to consider under section 126D,~~
  - ~~(c) if the proposed scheme mentioned in section 125(2) differs from the proposed scheme mentioned in paragraph (b), publish a notice stating where a copy of the proposed scheme mentioned in paragraph (b) may be inspected.~~
- ~~(6) If, following the sending of a request under subsection (4), the authority or authorities—~~
- ~~(a) modify the proposed scheme under section 125(5) or section 126D(7), and~~
  - ~~(b) desire the QCS board to exercise its functions under section 126D in relation to the proposed scheme, as modified,~~
- ~~they may send the board a further request under subsection (4).~~
- ~~(7) If at any time the authority or authorities decide not to proceed with the proposed scheme, they must—~~
- ~~(a) give written notice of that decision to the QCS board, and~~
  - ~~(b) publish notice that they have done so.~~

### **~~126D Consideration of proposed schemes by boards~~**

- ~~(1) Following receipt of a request from the authority or authorities under section 126C(4), the QCS board is to consider the proposed scheme and—~~
- ~~(a) form an opinion whether the conditions set out in the paragraphs of section 124(1) or, as the case may be, of section 124(1A) are met in the case of the proposed scheme;~~
  - ~~(b) form an opinion whether the authority or authorities have complied with the requirements of section 125(1) to (3).~~
- ~~(2) If the board is of the opinion that the conditions mentioned in subsection (1)(a) are not met, it may make recommendations as to actions that the authority or authorities might take in response to that opinion.~~
- ~~(3) If the board is of the opinion that the authority or authorities have not complied with the requirements of section 125(1) to (3), it may make recommendations as to actions that the authority or authorities might take in response to that opinion.~~

~~(4) If, in performing its functions under subsection (1)(b), the board is of the opinion that any person who was not consulted under section 125(3) ought to have been so consulted, that person has—~~

- ~~(a) the rights of appeal under section 127A that are conferred by virtue of subsection (3)(b) of that section, or~~
- ~~(b) in a case where this section applies by virtue of section 131C(3) (non-exempt proposal to continue scheme), the rights of appeal under section 131F that are conferred by virtue of subsection (3)(b) of that section.~~

~~(5) The board is to give notice to the authority or authorities of—~~

- ~~(a) the opinions that it has formed on the questions in paragraphs (a) and (b) of subsection (1);~~
- ~~(b) any recommendations that it makes under subsection (2) or (3);~~
- ~~(c) its reasons for forming those opinions and making any such recommendations;~~

~~and is to publish a report stating those opinions, recommendations and reasons.~~

~~(6) If, in a case where the board makes recommendations under subsection (3), the authority or authorities take the action recommended by the board and publish notice that they have done so, this Part has effect as if—~~

- ~~(a) the authority or authorities had complied with the requirements of section 125(1) to (3) to which the recommendations relate, and~~
- ~~(b) the opinion formed by the board on the question in subsection (1)(b) had included (and had been stated in the report as including) the opinion that the authority or authorities had complied with those requirements.~~

~~(7) Following receipt of the notice under subsection (5), the authority or authorities may modify the proposed scheme:~~

~~(8) If the authority or authorities—~~

- ~~(a) modify the proposed scheme by virtue of subsection (7) or section 125(5), and~~
- ~~(b) send the board a request under section 126C(4) by virtue of section 126C(6);~~

~~this section has effect with such modifications or exclusions as may be prescribed by regulations under section 126E or 133.~~

#### **~~126E Practice and procedure of boards~~**

~~(1) The Secretary of State may make regulations—~~

- ~~(a) with respect to the constitution of a QCS board,~~
- ~~(b) with respect to the powers and duties of any such board,~~
- ~~(c) governing the practice and procedure to be followed by any such board, and~~
- ~~(d) generally for the carrying into effect of the powers and duties of any such board.~~

~~(2) The provision that may be made by regulations under subsection (1) includes~~

- ~~(a) provision about requests under section 126C(4);~~
- ~~(b) provision for an acknowledgement of the receipt of any such request to be issued by such person, and within such time, as may be prescribed in the regulations;~~
- ~~(c) the procedure to be followed in cases where a further request under section 126C(4) is sent to the QCS board by virtue of section 126C(6) in relation to a proposed scheme which has been modified (the "modified scheme");~~
- ~~(d) provision for or in connection with the making of representations about the modified scheme;~~
- ~~(e) the publication by the board of provisional findings before it publishes its report.~~

~~(3) Regulations may prescribe the time within which the Secretary of State considers that any QCS board should normally have published its report.~~

- ~~(4) It is the duty of a QCS board to take all reasonable steps to publish its report within that time.~~
- ~~(5) If a QCS board does not publish its report within that time, the Commissioner must immediately prepare a statement of—~~
- ~~(a) the reasons why the board has not published its report within that time;~~
  - ~~(b) the action the board is taking to publish its report as soon as reasonably practicable;~~
  - ~~(c) the time within which it is expected that the board will publish its report.~~
- ~~(6) As soon as reasonably practicable after the statement required by subsection (5) has been prepared, the Commissioner must send a copy of it to each of the following—~~
- ~~(a) the Secretary of State;~~
  - ~~(b) the authority or authorities proposing to make the scheme.~~
- ~~(7) The Secretary of State may issue guidance concerning the carrying out by a QCS board of its functions under this Part in relation to quality contracts schemes.~~
- ~~(8) A QCS board must have regard to any such guidance.~~
- ~~(9) In this section—~~
- ~~"the Commissioner" has the same meaning as in section 126A;~~
  - ~~"regulations" means regulations made by the Secretary of State;~~
  - ~~"report" means the report which the board is required to publish by virtue of section 126D(5).~~

## 127 Making of scheme

- (1) The authority or authorities who proposed the scheme may make it—
- ~~(a) in the case of a scheme for an area in England, in accordance with the requirements of subsection (1A);~~
  - ~~(b) in the case of a scheme for an area in Wales, in accordance with the requirements of subsection (1B).~~
- ~~(1A) If the scheme is for an area in England, the authority or authorities who proposed it—~~
- ~~(a) must not make the scheme until they publish a response prepared by them to the report published by the QCS board under section 126D(5) in relation to the scheme, but~~
  - ~~(b) subject to that, may make the scheme at any time not later than 6 months after the publication of that report.~~

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

- (1B) If—
- ~~(a) the scheme is for an area in Wales, and~~
  - (b) the Welsh Ministers approve the scheme under section 126,

the authority or authorities who proposed it may make it, as approved, at any time not later than 6 months after the date of the approval.

- (2) The scheme must specify—
- (a) the area to which it relates,
  - (b) the date on which it is to come into operation or, if the scheme provides for different provisions to come into operation on different dates, or on different dates for different purposes, those dates in the case of each provision, and
  - (c) the period for which it is to remain in operation, which must not be more than ten years from the earliest date on which the scheme or any of its provisions comes into operation
- (2A) No date that is to be specified under subsection (2)(b) may be earlier than 6 months after the scheme is made.
- (3) The scheme must outline—
- (a) the local services which are to be provided under quality contracts, and

(b) the features of the proposed invitations to tender for quality contracts

(3A) The scheme must specify the date or dates on which it is proposed that the authority or authorities will issue invitations to tender for the provision of any services to which the scheme relates (see section 130).

(4) The scheme may provide that—

- (a) local services specified in it, or
- (b) local services of a class specified in it,

are to be excluded from the scheme, subject to such conditions (if any) as may be specified in it.

(5) The scheme may contain such ancillary provisions as the authority or authorities think fit.

(6) The scheme may include provision—

- (a) varying or revoking any quality partnership scheme which only relates to the area of the authority, or combined area of the authorities, by which the scheme is made, or
- (b) varying any other quality partnership scheme to the extent that it so relates.

(7) If provision is made under subsection (6)(b) to vary the quality partnership scheme so that it no longer so relates, such of the authorities by which it was made as did not make the quality contracts scheme—

- (a) may (subject to the provision so made) vary it if they decide that it is appropriate to do so, or
- (b) may revoke it if all persons who have given an undertaking to provide a service to a standard specified in the scheme consent to the revocation of the scheme (which consent must not be unreasonably withheld);

and subsections (3) and (4) of section 120 apply to a variation or revocation under this subsection.

(8) Not later than 14 days after the date on which the scheme is made, the authority or authorities must—

- (a) give notice in at least one newspaper circulating in the area to which the scheme relates, and
- (b) send a copy of the scheme to a traffic commissioner.

(9) The notice must state—

- (a) that the scheme has been made,
- (b) where a copy of the scheme may be inspected, and
- (c) the date or dates on which the scheme, or the different provisions of the scheme, are to come into operation.

(10) The appropriate national authority may by order vary any of the periods mentioned in subsection ~~(1A)~~, (1B) or (2A).

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

~~(1) This section applies where an authority or authorities make a quality contracts scheme for an area in England.~~

~~(2) Any person falling within subsection (3) may appeal to the Transport Tribunal against the decision of the authority or authorities to make the scheme.~~

~~(3) The persons are—~~

- ~~(a) any person who was consulted under section 125(3),~~
- ~~(b) any person who was not consulted under section 125(3) but who, in the opinion of the QCS board under section 126D(1)(b), ought to have been so consulted.~~

~~(4) An appeal under this section may be—~~

- ~~(a) on a point of law, or~~
- ~~(b) on a question of fact, unless subsection (5) prevents it.~~

~~(5) No appeal lies under this section on a question of fact (and no question of fact is to be entertained by the Tribunal on an appeal under this section) in any case where subsection (6) applies.~~

~~(6) This subsection applies if the QCS board stated in its report under section 126D(5) that it is of the opinion—~~

- ~~(a) that the conditions in the paragraphs of section 124(1) or, as the case may be, of section 124(1A) are met, and~~
- ~~(b) that the authority or authorities have complied with the requirements of section 125(1) to (3) (or are by virtue of section 126D(6) to be taken to have complied with those requirements by virtue of having taken any action recommended by the board in any previous reports),~~

~~and if the scheme, as made, corresponds to the proposed scheme to which that report relates.~~

~~(7) The authority or authorities may issue invitations to tender in accordance with section 130(1) notwithstanding the lodging of any appeal under or by virtue of this section.~~

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

~~(1) On an appeal under section 127A the Transport Tribunal shall have power—~~

- ~~(a) to make such order as they think fit, or~~
- ~~(b) to remit any matter (with or without directions) to the authority or authorities for their consideration or determination or for such other purposes as the Tribunal may direct.~~

~~(2) The powers of the Tribunal on an appeal under section 127A include power to do any one or more of the following—~~

- ~~(a) dismiss the appeal in whole or in part,~~
- ~~(b) remit the matter to the authority or authorities with one or more directions under subsection (3),~~
- ~~(c) direct the authority or authorities to vary the scheme in such manner as the Tribunal may specify in the direction (but see subsection (4)),~~
- ~~(d) quash the decision of the authority or authorities (but see subsection (5)).~~

~~(3) A direction under this subsection is a direction for the authority or authorities to do each of the following—~~

- ~~(a) consider or reconsider such matters as may be specified in the direction,~~
- ~~(b) consult or further consult as respects those matters in such manner as may be specified in the direction,~~
- ~~(c) vary the scheme in such respects as may in consequence appear appropriate to the authority or authorities.~~

~~(4) The Tribunal may give a direction under this section to vary the scheme by reducing the area to which the scheme relates only if they are of the opinion that the conditions in section 132(3) are met.~~

~~(5) The power of the Tribunal under this section to quash the decision of the authority or authorities is exercisable only if the Tribunal are of the opinion that there are defects in the scheme which are not capable of being remedied by varying the scheme under or by virtue of subsection (2)(b) or (c).~~

~~(6) Where, on an appeal under section 127A, the Tribunal exercises any power falling within paragraph (b) of subsection (2) above, the only further appeal allowed under that section is an appeal against a decision of the authority or authorities to vary, or not to vary, the scheme by virtue of subsection (3)(c).~~

### **128 Postponement of scheme**

(1) If it appears to the authority or authorities who made the scheme appropriate to do so, they may decide that the date on which the scheme, or any particular provision of the scheme, would otherwise come into operation, or come into operation for any particular purpose or purposes,

shall be postponed by such period as they think fit (subject to any provision of regulations made under subsection (4)).

(2) Before making such a decision they must consult all operators of local services who would, in their opinion, be affected by the decision.

(3) Not later than 14 days after the date on which any such decision is made they must give notice of the decision—

- (a) in at least one newspaper circulating in the area to which the scheme relates, . . .
- (b) to all operators of local services who would, in their opinion, be affected by the decision[, and
- (c) to a traffic commissioner.

(4) The appropriate national authority may by regulations make provision with respect to postponements under subsection (1).

(5) The regulations may in particular make provision—

- (a) as to the maximum period of postponements, and
- (b) requiring authorities to re-issue invitations to tender in accordance with section 130.

### **129 Effect of scheme**

(1) During any period in which the scheme, or (in the case of a scheme which provides for different provisions to come into operation on different dates) any provision of the scheme, is in operation—

- (a) sections 6 to 9 of the Transport Act 1985 (registration of local services) do not have effect in relation to the area to which the scheme, or that provision, relates, and
- (b) no local service shall be provided in that area (if there is a stopping place for the service in that area) unless it is provided under a quality contract or is an interim service (see section 132C).

(2) But subsection (1) does not apply—

- (a) so as to prevent the application of sections 6 to 9 of the Transport Act 1985 in relation to any service by virtue or in consequence of section 6B of that Act (application for registration or variation where quality contracts scheme in force),
- (b) so as to prevent the provision of any service registered under section 6 of the Transport Act 1985 by virtue of section 6B of that Act, or
- (c) in relation to services which are excluded from the scheme as a result of any provision of the scheme made in accordance with section 127(4).

(3) Where the exclusion of a local service from the scheme is made subject to conditions as a result of such a provision, those conditions are to be treated, during any period in which the scheme is in operation, as if they were prescribed particulars registered under section 6 of the Transport Act 1985 of the service concerned.

### **130 Tendering for quality contracts**

(1) The authority, or the authorities acting jointly, must invite tenders for the provision of services to which the scheme, or each provision of the scheme, relates for such period and on such basis as may be specified in the invitation to tender.

(2) The period specified must not exceed 10 years.

(3) Subject to subsection (4), such an invitation—

- (a) must be issued generally, in such manner as the authority or authorities consider appropriate for bringing it to the attention of persons who may be interested, and
- (b) must also be issued individually to all persons who have given to that authority or any of those authorities a written notice indicating that they wish to receive invitations to tender for the provision of local services of a description to which the invitation relates.

(4) Such a notice must specify the address to which such an invitation is to be directed, and it shall be sufficient for the purposes of subsection (3)(b) if the authority or authorities send the invitation to the person giving such a notice at the address so specified.

(5) The authority or authorities may only accept a tender submitted by a person who is the holder of either—

- (a) a PSV operator's licence, or
- (b) a community bus permit.

(6) But subsection (5)(a) does not include a licence to which a condition is attached under section 26 of the Transport Act 1985 (power of traffic commissioner to attach conditions to licences) prohibiting the holder from using vehicles under the licence to provide local services of all descriptions or of any description to which the invitation relates.

(7) After entering into a quality contract, the authority or authorities must give notice to a traffic commissioner of—

- (a) the local services to be provided in accordance with the contract, and
- (b) the duration of the contract.

(8) The appropriate national authority may by regulations make provision requiring authorities to publish prescribed information about tenders submitted to them in accordance with this section or about their reasons for entering into particular quality contracts.

### **131 Exceptions from section 130**

(1) Section 130 does not apply in any case where it appears to the authority or authorities that action is urgently required for the purpose of—

- (a) maintaining an existing service,
- (b) securing the provision of a service in place of a service which has ceased to operate, or
- (c) securing the provision of a service to meet any public transport requirement which has arisen unexpectedly and ought in the opinion of the authority to be met without delay.

(2) The appropriate national authority may by regulations make provision for further exceptions from section 130, including in particular with respect to—

- (a) cases in which no tender, or no acceptable tender, is submitted in response to an invitation to tender issued under section 130(1) or under any provision made by virtue of subsection (5)(a), and
- (b) agreements of a prescribed description.

(3) The appropriate national authority may make regulations fixing the maximum duration of a quality contract entered into under subsection (1) or under any provision made by virtue of subsection (2).

(4) The appropriate national authority may by regulations make further provision with respect to exceptions from section 130.

(5) Regulations under subsection (4) may in particular—

- (a) require authorities to invite tenders for the provision of a service which is the subject of a quality contract made under subsection (1) or under any provision made by virtue of subsection (2), and
- (b) require authorities to publish prescribed information (including as to their reasons for entering into particular quality contracts) or to give notices.

### **131A Continuation of schemes for further periods**

(1) If it appears to them appropriate to do so, the authority or authorities who made a quality contracts scheme (other than any to whose area the scheme no longer relates) may decide that the scheme should continue in operation for a further period, with or without modification.

(2) Before making such a decision, they must, unless the proposal that the scheme should continue is an exempt continuation proposal (see section 131B), comply with the requirements of—



- (a) section 124(2)(b) (approval by Welsh Ministers), ~~if the scheme is for an area in Wales,~~ or
- (b) ~~section 124(2)(c) (publication of request to, and response to report of, QCS board), if the scheme is for an area in England.~~

(3) Section 125 applies in relation to the continuation of a scheme under this section as it applies in relation to the making of a scheme, but with the following modifications—

- (a) any reference to a proposal to make a scheme is to be read as a reference to a proposal for the continuation of a scheme,
- (b) any reference to the proposed scheme is to be read as a reference to the scheme as proposed to continue in operation,

and with the further modifications specified in subsections (4) and (5), but this is subject to such modifications or exclusions as may be prescribed by regulations under section 133.

(4) ~~If the proposal is an exempt continuation proposal—~~

- (a) ~~section 125(1)(d) (duty to send copy of notice to senior traffic commissioner if scheme relates to area in England) does not apply, but~~
- (b) ~~section 125(3)(e) (duty to consult a traffic commissioner) applies with the omission of the words "if the proposed scheme relates to an area in Wales,".~~

(5) The consultation document that is to be published by virtue of section 125(1)(a), as applied by subsection (3), must (instead of complying with section 125(1A)) include—

- (a) a description of the scheme, together with any proposed modifications to it;
- (b) a statement of the opinion of the authority or authorities as to the effectiveness of the scheme in achieving the objectives set out in paragraphs (a) to (e) of section 124(1) ~~or, as the case may be, paragraphs (b) and (d) of section 124(1A)~~ up to the date of the report;
- (c) a statement of the reasons why they are satisfied that the scheme as proposed to be continued (with any proposed modifications) will meet the conditions in subsection (1) ~~or, as the case may be, (1A)~~ of section 124;
- (d) a description of any arrangements which the authority or authorities intend to make (including arrangements with other authorities or other persons) for or in connection with the continuation of the scheme;
- (e) a statement of the period for which it is proposed that the scheme should continue in operation, which must not be more than a further 10 years;
- (f) if the authority or authorities consider that the proposal for the scheme to continue is an exempt continuation proposal, a statement of that fact;
- (g) a statement of how any costs which the authority or authorities expect to incur under the scheme are to be defrayed;
- (h) a declaration by the chief finance officer or officers of the authority or authorities that, after taking into account—
  - (i) any estimated income from fares, and
  - (ii) any grants from Ministers of the Crown or government departments,any remaining funding required to continue the scheme in operation can be provided from other resources available to the authority or authorities;
- (i) the date by which any written responses to the consultation must be submitted to the authority or authorities.

(6) For the purposes of this section—

- (a) subsection (1B) of section 125 (matters to be included in the description of the proposed scheme) applies for the purposes of subsection (5)(a) as it applies for the purposes of subsection (1A)(a) of that section, and
- (b) subsection (1C) of that section (meaning of "chief finance officer") applies for the purposes of subsection (5)(h) as it applies for the purposes of subsection (1A)(e) of that section.

(7) The consultation document mentioned in subsection (5) must be published and supplied in accordance with section 125(1)(a) and (b) (as applied by this section) not less than 12 months before the scheme's expiry date.

(8) For the purposes of this section, a scheme's "expiry date" is the later of the following dates—

- (a) the end of the period specified in the scheme in accordance with section 127(2)(c),
- (b) if the scheme has been continuing in operation by virtue of the previous application of this section, the end of the period for which it is so continuing in operation.

(9) The period for which a scheme continues in operation by virtue of a decision under subsection (1) may begin—

- (a) on such day falling before, on, or immediately after the scheme's expiry date as the authority or authorities decide, or
- (b) if the circumstances are such that the continuation of the scheme cannot begin on a day falling within paragraph (a), on such later day as the authority or authorities decide in accordance with regulations made by the appropriate national authority for the purposes of such circumstances.

(10) If the authority or authorities publish and supply a consultation document in accordance with subsection (7), the scheme remains in operation (without any modifications proposed by them under subsection (1)) until

- (a) in a case where the scheme is to continue in operation for a further period, the day before the beginning of that period, or
- (b) in any other case, the scheme's expiry date.

(11) Section 130 (tendering) applies to a scheme that continues in operation under this section (whether or not the proposal for the scheme to continue in operation was an exempt continuation proposal) but subject to regulations made by the appropriate national authority under section 133(3).

### **131B Meaning of "exempt continuation proposal"**

(1) For the purposes of this Part a proposal that a quality contracts scheme should continue in operation is an "exempt continuation proposal" if—

- (a) any one or more of Conditions 1 to 3 are met and Conditions A and B are met, or
- (b) the circumstances are as prescribed in regulations made by the appropriate national authority.

(2) Condition 1 is that it is not proposed that the area to which the continuation scheme relates is to be greater than the area to which the existing scheme relates.

(3) Condition 2 is that it is proposed that the area to which the continuation scheme relates is to be greater than the area to which the existing scheme relates, but—

- (a) the additional area proposed to be included falls wholly within the area or combined area of the authority or authorities proposing the continuation of the scheme, and
- (b) it is not proposed that under the continuation scheme any descriptions of local services are to be provided under quality contracts in addition to the descriptions of local services so provided under the existing scheme.

(4) Condition 3 is that during the period while the existing scheme has been in force—

- (a) there has been a change in the area of the authority, or of any of the authorities, that last made or continued the scheme, or
- (b) a different authority has become the local transport authority for some or all of the area to which the scheme relates,

but it is not proposed that under the continuation scheme any descriptions of local services are to be provided under quality contracts in addition to the descriptions of local services so provided under the existing scheme.

(5) Condition A is that it is not proposed under the continuation scheme that any local services which, immediately before the coming into force of that scheme, were unregulated services are under the continuation scheme to be provided under quality contracts.

(6) Condition B is that it is not proposed under the continuation scheme that any services which, immediately before the coming into force of that scheme, were excluded services in the case of the existing scheme are not to be excluded services in the case of the continuation scheme.

(7) In this section—

"the continuation scheme" means the scheme as proposed to continue in operation;

"excluded services", in the case of any quality contracts scheme, means any local services, or class of local services, which are excluded from the scheme by virtue of section 127(4);

"the existing scheme" means—

(a) the scheme as last continued or varied, or

(b) if the scheme has not previously been continued or varied, the scheme as originally made;

"unregulated services" means any local services provided otherwise than—

(c) under a contract with one or more local transport authorities, or

(d) by an authority or authorities acting under section 132C(2) (power to provide interim services in exceptional circumstances);

and any reference to the coming into force of a scheme includes a reference to the coming into force of any particular provision of it.

(8) See also section 131E (which makes provision about appeals relating to exempt continuation proposals).

### ~~131C Continuation of schemes for areas in England: procedure~~

~~(1) This section has effect with respect to the continuation in operation under section 131A (or the proposed continuation in operation under that section) of a quality contracts scheme for an area in England (whether with or without modifications).~~

~~(2) If the proposal for the continuation of the scheme—~~

~~(a) is an exempt continuation proposal, or~~

~~(b) in a case where the authority or authorities have decided that the scheme should continue, was such a proposal,~~

~~subsections (2) and (3) to (9) of section 127 apply in relation to the continuation of the scheme as they apply in relation to the making of a scheme, but with the modifications in subsection (4).~~

~~(3) Where subsection (2) does not apply, sections 126A to 127 apply in relation to the continuation of a scheme as they apply in relation to the making of a scheme, but with the modifications in subsection (4).~~

~~(4) The modifications are—~~

~~(a) any reference to a proposal to make a scheme is to be read as a reference to a proposal for the continuation of a scheme,~~

~~(b) any reference to making a scheme is to be read as a reference to deciding that a scheme should continue in operation,~~

~~(c) any reference to the proposed scheme is to be read as a reference to the scheme as proposed to continue in operation,~~

~~(d) any reference to any conditions set out in any paragraphs of section 124(1) or (as the case may be) of section 124(1A) being met is to be read as a reference to those conditions being met by the scheme as proposed to continue in operation (with any proposed modifications),~~

~~(e) any reference to section 125 or any provision of that section is to be read as a reference to that section or provision as it has effect by virtue of section 131A,~~

~~(f) the references in section 127(2)(b) and (9)(c) to the date or dates on which the scheme is, or provisions of the scheme are, to come into operation are to be read as references to the day decided by the authority or authorities by virtue of section 131A(9);~~

~~(g) section 127 has effect with the omission of subsection (2A) (scheme not to come into operation until 6 months after making);~~

~~but further or different modifications, or exclusions, may also be made by regulations under section 133(3)(b).~~

~~(5) If, acting on the basis that the proposal for the continuation of the scheme is an exempt continuation proposal, the authority or authorities decide that the scheme is to continue, they must—~~

~~(a) publish in such manner as they think fit, and within the time allowed, a notice announcing their decision on the proposal;~~

~~(b) supply a copy of that notice to each of the persons mentioned in section 125(3) as it applies by virtue of section 131A in a case where the proposal is an exempt continuation proposal, and~~

~~(c) give notice of the decision in accordance with section 127(8) and (9).~~

~~(6) For the purposes of subsection (5)(a), the time allowed is the period of 6 months following the date of publication of the consultation document required by section 125(1) as applied by section 131A.~~

### **131D Continuation of schemes for areas in Wales: procedure**

(1) This section has effect with respect to the continuation in operation under section 131A (or the proposed continuation in operation under that section) of a quality contracts scheme for an area in Wales (whether with or without modifications).

(2) Subsections (2) and (3) to (9) of section 127 apply in relation to the continuation of the scheme as they apply in relation to the making of a scheme, but with the modifications in subsection (4).

(3) Unless the proposal for the continuation of the scheme—

(a) is an exempt continuation proposal, or

(b) in a case where the authority or authorities have decided that the scheme should continue, was such a proposal,

subsections (1)(b) and (1B) of section 127 also apply in relation to the continuation of the scheme, and with the modifications in subsection (4).

(4) The modifications are—

(a) any reference to proposing to make a scheme is to be read as a reference to proposing the continuation of a scheme,

(b) any reference to making a scheme is to be read as a reference to deciding that a scheme should continue in operation,

(c) any reference to the proposed scheme is to be read as a reference to the scheme as proposed to continue in operation,

(d) the references in section 127(2)(b) and (9)(c) to the date or dates on which the scheme is, or provisions of the scheme are, to come into operation are to be read as references to the day decided by the authority or authorities by virtue of section 131A(9),

but further or different modifications, or exclusions, may also be made by regulations under section 133(3)(b).

(5) Subsection (6) applies in any case where—

(a) an authority or authorities propose that a quality contracts scheme for an area in Wales should continue in operation (with or without modification) under section 131A, and

(b) the proposal is not an exempt continuation proposal.

(6) In any such case, section 126 (approval by Welsh Ministers of proposed schemes for areas in Wales) applies in relation to a proposal for the continuation of a scheme as it applies in relation to a proposal to make a scheme, but with the modifications set out in subsection (7).

(7) The modifications are—

- (a) any reference to a proposed scheme is to be read as a reference to a proposal for a scheme to continue in operation under section 131A;
- (b) the reference in section 126(2)(a) to wishing to make a scheme is to be read as a reference to wishing that a scheme should continue in operation;
- (c) any reference to any conditions set out in any paragraphs of section 124(1) being met is to be read as a reference to those conditions being met by the scheme as proposed to continue in operation (with any proposed modifications);
- (d) any reference to section 125 or any provision of that section is to be read as a reference to that section or provision as it has effect by virtue of section 131A.

(8) If, acting on the basis that the proposal for the continuation of the scheme is an exempt continuation proposal, the authority or authorities decide that the scheme is to continue, they must—

- (a) publish in such manner as they think fit, and within the time allowed, a notice announcing their decision on the proposal,
- (b) supply a copy of that notice to each of the persons mentioned in section 125(3) as it applies by virtue of section 131A, and
- (c) give notice of the decision in accordance with section 127(8) and (9).

(9) For the purposes of subsection (8)(a), the time allowed is the period of 6 months following the date of publication of the consultation document required by section 125(1)(a) as it applies by virtue of section 131A.

### **131E Appeals where proposed continuation considered exempt**

(1) This section applies where an authority or authorities who propose that a quality contracts scheme should continue in operation (with or without modifications) under section 131A—

- (a) decide that the proposal is an exempt continuation proposal, and
- (b) acting on the basis of that decision, decide that the scheme should so continue in operation.

(2) Any person falling within subsection (3) may appeal to the Transport Tribunal against—

- (a) the decision of the authority or authorities that the proposal is an exempt continuation proposal, or
- (b) the decision of the authority or authorities that the scheme is to continue in operation (with or without any modifications).

(3) The persons are—

- (a) any person who was consulted under section 125(3) (as it applies by virtue of section 131A in a case where the proposal is an exempt proposal),
- (b) any person who was not so consulted, but who, in the opinion of the Transport Tribunal, ought to have been so consulted.

(4) An appeal under this section may be—

- (a) on a point of law, or
- (b) on a question of fact.

(5) On an appeal under this section the Transport Tribunal shall have power—

- (a) to make such order as they think fit, or
- (b) to remit any matter (with or without directions) to the authority or authorities for their consideration or determination or for such other purposes as the Tribunal may direct.

(6) The powers of the Tribunal on an appeal under this section include power to do any one or more of the following—

- (a) dismiss the appeal in whole or in part,
- (b) remit the matter to the authority or authorities with one or more directions under subsection (7),
- (c) direct the authority or authorities to vary the scheme, as it continues or is to continue in operation, in such manner as the Tribunal may specify in the direction (but see subsection (8)),
- (d) quash the whole or any part of the decision of the authority or authorities (but see subsection (9)).

(7) A direction under this subsection is a direction for the authority or authorities to do each of the following—

- (a) consider or reconsider such matters as may be specified in the direction,
- (b) as respects those matters, consult or further consult the persons mentioned in section 125(3) as it applies by virtue of section 131A in a case where the proposal is an exempt continuation proposal,
- (c) make such variations of the scheme, as it continues or is to continue in operation, as may in consequence appear appropriate to the authority or authorities.

(8) The Tribunal may give a direction under this section to vary a scheme by reducing the area to which it relates only if they are of the opinion that the conditions in section 132(3) are met.

(9) The power of the Tribunal under this section to quash a decision of an authority or authorities that a scheme should continue in operation under section 131A is exercisable only if the Tribunal are of the opinion that there are defects in the scheme which are not capable of being remedied by varying the scheme under or by virtue of subsection (6)(b) or (c).

(10) If, on an appeal under paragraph (a) or (b) of subsection (2), the Tribunal decide that the proposal for the scheme to continue in operation was not an exempt continuation proposal—

- (a) they must allow the appeal to that extent,
- (b) they must remit the matter to the authority or authorities, with or without directions, and
- (c) subsections (11) to (14) have effect.

(11) The directions that the Tribunal may give under this section include—

- (a) directions to take any action specified in the directions for the purpose of remedying any failure to comply with requirements of this Part that have effect where a proposal for continuation under section 131A is not an exempt continuation proposal,
- (b) directions to make variations specified in the directions for the purpose of securing that the condition in paragraph (a) or (b) of subsection (1) of section 131B (meaning of "exempt continuation proposal") is met in the case of the scheme,
- (c) directions authorising the scheme to continue in operation temporarily, with or without variations, for a period specified or described in the directions, but subject to compliance with conditions as to the time within which any particular action specified in directions under this section is to be taken.

(12) Where the Tribunal give directions falling within subsection (11), they may also make provision in the order dispensing with the need to comply with such procedural requirements imposed by or under this Part as they may specify in the order.

(13) ~~If the scheme or proposed scheme relates to an area in Wales,~~ the Tribunal may not make any order which has the effect of—

- (a) giving approval under section 126 as it applies by virtue of section 131D, or
- (b) dispensing with the need for any such approval,

but this is without prejudice to the temporary provision that may be made in directions falling within subsection (11)(c).

(14) The appropriate national authority may make regulations with respect to the procedure to be followed in relation to a scheme in cases where the Tribunal decide that the proposal for continuation under section 131A was not an exempt continuation proposal.

### **131F Appeals where proposed continuation considered non-exempt**

- (1) This section applies where an authority or authorities—
- (a) propose that a quality contracts scheme for an area in England should continue in operation (with or without modifications) under section 131A;
  - (b) decide that the proposal is not an exempt continuation proposal, and
  - (c) acting on the basis of that decision, decide that the scheme should so continue in operation.
- (2) Any person falling within subsection (3) may appeal to the Transport Tribunal against the decision of the authority or authorities that the scheme should continue in operation.
- (3) The persons are—
- (a) any person who was consulted under section 125(3) (as it applies by virtue of section 131A in a case where the proposal is not an exempt continuation proposal);
  - (b) any person who was not so consulted, but who, in the opinion of the QCS board under section 126D(1)(b), ought to have been so consulted.
- (4) Sections 127A(4) to (7) and 127B apply in relation to an appeal under subsection (2) as they apply in relation to an appeal under subsection (2) of section 127A, but with—
- (a) the modifications in subsection (5), and
  - (b) such further or different modifications or exclusions as may be prescribed under section 133.
- (5) The modifications are—
- (a) any reference to the scheme is to be read as a reference to the scheme as it continues in operation;
  - (b) any reference to the scheme as made is to be read as a reference to the scheme as it continues in operation;
  - (c) any reference to the proposed scheme is to be read as a reference to the scheme as proposed to continue in operation;
  - (d) any reference to any conditions set out in any paragraphs of section 124(1) or (as the case may be) of section 124(1A) being met is to be read as a reference to those conditions being met by the scheme as proposed to continue in operation (with any proposed modifications);
  - (e) any reference to section 125 or any provision of that section is to be read as a reference to that section or provision as it applies by virtue of section 131A in a case where the proposal is not an exempt continuation proposal.

### **132 Variation or revocation of scheme**

- (1) The authority or authorities who made the scheme (other than any to whose area the scheme no longer relates) may vary it by—
- (a) increasing the area to which it relates (to no greater than the whole of their area or combined area) or adding to the description of local services which are to be provided under quality contracts,
  - (b) reducing that area or reducing the description of services, or
  - (c) providing for new exclusions from the scheme or for the variation or revocation of existing exclusions.
- (2) The scheme may not be varied under subsection (1)(a) unless the conditions set out in subsection (1)(a) to (e) of section 124 ~~or those set out in subsection (1A)(a) to (d) of that section~~ are met with respect to the scheme as varied.
- (3) The scheme may not be varied under subsection (1)(b) unless the relevant conditions—
- (a) are no longer met with respect to it, but
  - (b) are met with respect to the scheme as varied.
- (4) The authority or authorities who made the scheme (other than any to whose area the scheme no longer relates) may revoke the scheme—
- (a) if the relevant conditions are no longer met with respect to it,

- (aa) if they consider that those conditions would no longer be met with respect to it if they were to act in accordance with a direction given by the Transport Tribunal under this Part, or
- (b) if they and one or more other authorities make a quality contracts scheme covering the whole or part of the area to which it relates.
- (4A) In subsections (3) and (4) "the relevant conditions" means—
  - (c) in the case of a scheme made under section 124(1) and not subsequently continued in operation under section 131A or varied under subsection (1)(a) of this section, the conditions set out in section 124(1)(a) to (e);
  - ~~(d) in the case of a scheme made under section 124(1A) and not subsequently continued in operation under section 131A or varied under subsection (1)(a) of this section, the conditions set out in section 124(1A)(a) to (d); and~~
  - (e) in the case of a scheme that has been [continued in operation under section 131A or] varied under subsection (1)(a) of this section, the conditions by reference to which it was last so continued in operation or varied.
- (5) The variation or revocation of a scheme under subsection (1) or (4) is subject to the provisions of—
  - ~~(a) subsection (6) (revocation: areas in England),~~
  - ~~(b) subsection (7) (non-exempt variation: areas in England),~~
  - ~~(c) subsection (8) (exempt variation: areas in England), or~~
  - (d) subsection (9) (areas in Wales),

except to the extent that section 132B (exemption for specific variations directed by Transport Tribunal on appeal) otherwise provides.

- ~~(6) The revocation of a scheme for an area in England is subject to the following requirements—~~
  - ~~(a) before deciding to revoke the scheme, the authority or authorities must consult the persons mentioned in section 125(3) and a traffic commissioner,~~
  - ~~(b) as soon as reasonably practicable after deciding to revoke the scheme, the authority or authorities must give notice of the decision to [a traffic commissioner] and must publish the notice in at least one newspaper circulating in the area to which the scheme relates,~~
  - ~~(c) the notice must state that the decision has been taken and specify the date on which the revocation is to take effect,~~

~~except to the extent that those requirements are modified or excluded by regulations made by the Secretary of State under section 133.~~

~~(7) The non-exempt variation of a scheme for an area in England is subject to the same procedure as the making of the scheme, except to the extent that that procedure is modified or excluded by regulations made by the Secretary of State under section 133.~~

~~(8) The exempt variation of a scheme for an area in England is subject to the same procedure as the making of a scheme, except to the extent that that procedure is modified or excluded by regulations made by the Secretary of State under section 133, but for the purposes of this subsection—~~

- ~~(a) sections 124(2)(c) and (2A), 126A to 126E and 127(1)(a) and (1A) (the QCS board provisions) do not apply;~~
- ~~(b) there is no requirement to give notice to the senior traffic commissioner under section 125(1)(d);~~
- ~~(c) the authority or authorities must consult [a traffic commissioner];~~
- ~~(d) sections 127A and 127B (appeals to the Transport Tribunal) do not apply;~~
- ~~(e) section 132A (appeals where proposed variation considered exempt) has effect in those cases for which it makes provision.~~

(9) The variation or revocation of a scheme for an area in Wales—



- (a) requires the approval of the Welsh Ministers, except in the case of a variation which is an exempt variation, and
- (b) is subject to the same procedure as the making of the scheme, except to the extent that that procedure is modified or excluded by regulations made by the Welsh Ministers under section 133.

(10) Section 130 (tendering) applies to a varied scheme (whether or not the variation is an exempt variation) but subject to regulations made by the appropriate national authority under section 133(3).

(11) A variation of a scheme is an exempt variation for the purposes of this section if the variation is—

- (a) a reduction in the area to which the scheme relates,
- (b) a reduction in the descriptions of services which are to be provided under quality contracts, or
- (c) the provision of new exclusions from the scheme,

and a "non-exempt variation" is any other variation of a scheme.

(12) The appropriate national authority may by regulations provide that in prescribed circumstances quality contracts schemes may be revoked by that authority before coming into operation.

### **132A Appeals where proposed variation considered exempt**

(1) This section applies where an authority or authorities who propose to vary a quality contracts scheme under section 132—

- (a) decide that the proposal is an exempt variation for the purposes of that section, and
- (b) acting on the basis of that decision, decide to vary the scheme under that section.

(2) Any person falling within subsection (3) may appeal to the Transport Tribunal against—

- (a) the decision of the authority or authorities that the variation is an exempt variation for the purposes of section 132, or
- (b) the decision of the authority or authorities as to the variation of the scheme under that section.

(3) The persons are—

- (a) any person who was consulted under section 125(3) (as it applies by virtue of subsection (8) or, as the case may be, (9)(b) of section 132 in a case where the variation is an exempt variation for the purposes of section 132),
- (b) any person who was not so consulted, but who, in the opinion of the Transport Tribunal, ought to have been so consulted.

(4) An appeal under this section may be—

- (a) on a point of law, or
- (b) on a question of fact.

(5) On an appeal under this section the Transport Tribunal shall have power—

- (a) to make such order as they think fit, or
- (b) to remit any matter (with or without directions) to the authority or authorities for their consideration or determination or for such other purposes as the Tribunal may direct.

(6) The powers of the Tribunal on an appeal under this section include power to do any one or more of the following—

- (a) dismiss the appeal in whole or in part,
- (b) remit the matter to the authority or authorities with one or more directions under subsection (7),
- (c) direct the authority or authorities to vary the scheme, to the extent of the variation made by the authority or authorities, in such manner as the Tribunal may specify in the direction (but see subsection (8)),

(d) quash the whole or any part of the decision of the authority or authorities.

(7) A direction under this subsection is a direction for the authority or authorities to do each of the following—

- (a) consider or reconsider such matters as may be specified in the direction,
- (b) as respects those matters, consult or further consult the persons mentioned in section 125(3) (as it applies by virtue of subsection (8) or, as the case may be, (9)(b) of section 132 in a case where the variation is an exempt variation for the purposes of section 132),
- (c) make such variations of the scheme as may in consequence appear appropriate to the authority or authorities.

(8) The Tribunal may give a direction under this section to vary a scheme by reducing the area to which the scheme relates only if they are of the opinion that the conditions in section 132(3) are met.

(9) If, on an appeal under paragraph (a) or (b) of subsection (2), the Tribunal decide that the variation was not an exempt variation for the purposes of section 132—

- (a) they must allow the appeal to that extent,
- (b) they must remit the matter to the authority or authorities, with or without directions, and
- (c) subsections (10) to (13) have effect.

(10) The directions that the Tribunal may give under this section include—

- (a) directions to take any action specified in the directions for the purpose of remedying any failure to comply with requirements of this Part that have effect where a proposed variation under section 132 is not an exempt variation,
- (b) directions to make variations specified in the directions for the purpose of securing that the condition in paragraph (a), (b) or (c) of section 132(11) (meaning of "exempt variation") is met in the case of the variation,
- (c) directions authorising the scheme to continue in operation temporarily, with or without variations, for a period specified or described in the directions, but subject to compliance with conditions as to the time within which any particular action specified in directions under this section is to be taken.

(11) Where the Tribunal give directions falling within subsection (10), they may also make provision in the order dispensing with the need to comply with such procedural requirements imposed by or under this Part as they may specify in the order.

(12) ~~If the scheme or proposed scheme relates to an area in Wales,~~ the Tribunal may not make any order which has the effect of—

- (a) giving approval under section 126 as it applies by virtue of section 132, or
- (b) dispensing with the need for any such approval,

but this is without prejudice to the temporary provision that may be made in directions falling within subsection (10)(c).

(13) The appropriate national authority may make regulations with respect to the procedure to be followed in cases where the Tribunal decide that the variation or proposed variation was not an exempt variation for the purposes of section 132.

### **132B Exemption from s 132 for specific variations directed by Tribunal**

(1) This section applies in relation to any of the following appeals—

- (a) ~~an appeal under section 127A against a decision to make a scheme,~~
- (b) an appeal under section 131E(2)(a) against a decision that a proposal was an exempt continuation proposal,
- (c) an appeal under section 131E(2)(b) against a decision that a scheme should continue in operation,
- (d) an appeal under section 131F(2) against a decision that a scheme should continue in operation,

- (e) an appeal by virtue of section 132 against a decision to vary a scheme,
- (f) an appeal under section 132A(2)(a) against a decision that a variation was an exempt variation for the purposes of section 132,
- (g) an appeal under section 132A(2)(b) against a decision as to the variation of a scheme under section 132.

(2) Where—

- (a) any such appeal is made to the Transport Tribunal, and
- (b) on that appeal, the Tribunal direct the authority or authorities to vary the scheme in the manner specified by the Tribunal in the direction,

nothing in section 132(5) to (9) (procedure for variation of scheme) applies in relation to the varying of the scheme in the manner specified in the direction, unless the Tribunal otherwise direct.

(3) Subsection (2) is without prejudice to any right of appeal against the decision of the Transport Tribunal.

### **132C Power of authorities to provide services in exceptional circumstances**

(1) This section applies where a person who has agreed to provide a service ("the old service") in accordance with a quality contract ceases to do so before the end of the period for which the contract was intended to have effect.

(2) The authority, or any one of the authorities, who entered into the quality contract may, in accordance with subsections (4) to (8) and section 132D, provide a local service (an "interim service") in place of the old service or any part of it.

(3) Subsection (2) has effect notwithstanding any prohibition, restriction or limitation contained in any other enactment on the power of the authority to provide local services.

(4) An authority who provide an interim service of any description must hold a PSV operator's licence to which no condition is attached under section 26 of the Transport Act 1985 (power of traffic commissioner to attach conditions to licence) prohibiting the authority from using vehicles under the licence to provide services of that description.

(5) Subsection (6) applies if—

- (a) an authority provide an interim service in place of an old service or any part of an old service, and
- (b) the authority or authorities who entered into the quality contract for the provision of the old service propose to enter into a quality contract for the provision of a replacement service in place of that service or (as the case may be) that part.

(6) The authority, or the authorities acting jointly, must invite tenders (in accordance with section 130) for the provision of the replacement service—

- (a) as soon as reasonably practicable after the authority providing the interim service begin to do so, and
- (b) in any event no later than three months after the date on which provision of the old service ceased.

(7) But subsection (6) does not apply if the authority, or the authorities acting jointly, decide to secure the provision of the replacement service under section 131 (circumstances in which quality contracts may be entered into without inviting tenders).

(8) The particulars of an interim service, or of a replacement service, need not be identical to the particulars of the old service, or that part of the old service, which it replaces.

(9) In this section

"enactment" includes an enactment comprised in subordinate legislation (within the meaning of the Interpretation Act 1978);

"interim service" has the meaning given by subsection (2);

"the old service" has the meaning given by subsection (1);

"replacement service" means a local service provided under a quality contract in place of an old service or any part of an old service.

### **132D Period for which interim service may be provided**

(1) This section applies for the purpose of determining the period for which an authority may provide an interim service which is provided in place of—

- (a) an old service ("the relevant service"), or
- (b) part of an old service ("the relevant part").

(2) If the authority do not, within the period of three months beginning with the date on which provision of the relevant service ceased,—

- (a) enter into a quality contract to provide a replacement service in place of the relevant service or (as the case may be) the relevant part, or
- (b) issue an invitation to tender in pursuance of section 132C(6),

the authority must not provide the interim service after the end of that period.

(3) If the authority enter into a quality contract to provide such a replacement service within the period mentioned in subsection (2), the authority must not provide the interim service after the earlier of the following dates—

- (a) the date on which the replacement service is first provided;
- (b) the date falling nine months after the date on which the interim service is first provided.

(4) If the authority issue invitations to tender in pursuance of section 132C(6) within the period mentioned in subsection (2) (but do not enter into a quality contract to provide such a replacement service within that period), the authority must not provide the interim service after the earlier of the following dates—

- (a) the date on which a replacement service is first provided in place of the relevant service or (as the case may be) the relevant part;
- (b) the date determined in accordance with subsection (5).

(5) The date is the later of—

- (a) the date falling nine months after the date on which the interim service is first provided;
- (b) such date, not later than three months after the date mentioned in paragraph (a), as may be determined by a traffic commissioner on the application of the authority.

(6) A traffic commissioner may determine a date under subsection (5)(b) only if satisfied that there is a realistic prospect that, if the determination is made, a replacement service will be provided in place of the relevant service or (as the case may be) the relevant part on or before that date.

(7) Any application to a traffic commissioner under paragraph (b) of subsection (5) must be made at least one month before the date mentioned in paragraph (a) of that subsection.

(8) The authority must not make more than one application under subsection (5)(b) in respect of any interim service.

(9) In this section—

"interim service" and "replacement service" have the meaning given in section 132C;

"the relevant service" and "the relevant part" have the meaning given in subsection (1);

and, in any case where the authority entered into the quality contract for the provision of the relevant service jointly with one or more other authorities, references in this section to the authority entering into a quality contract for a replacement service, or issuing invitations to tender for such contracts, are references to those authorities acting jointly.

### 133 Regulations about schemes

(1) The appropriate national authority may by regulations make further provision with respect to—

- (a) the procedure to be followed when making, continuing, varying or revoking quality contracts schemes,
- (b) the approval of schemes ~~for areas in Wales,~~
- ~~(bb) the procedure to be followed by local transport authorities for areas in England when discharging functions that relate to a QCS board,~~
- ~~(bc) the procedure to be followed by QCS boards when discharging functions relating to proposed schemes for areas in England,~~
- (c) the local services or classes of local services which are to be, or may be, excluded from schemes,
- (d) the conditions which must be, or may be, attached to such exclusions, and
- (e) such other incidental matters in connection with quality contracts schemes as the appropriate national authority thinks fit.

(2) The regulations may in particular make provision with respect to—

- (a) giving notice of proposed schemes or proposed continuations, variations or revocation of schemes,
- (b) objections to such proposals,
- (c) the holding of inquiries or hearings into objections,
- (d) modifications of such proposals,
- (e) the form and manner of applications for approval of such proposals ~~for areas in Wales,~~
- (ee) the procedure for determining such applications,
- ~~(ef) the form and manner of requests under section 126C(4) relating to proposed schemes for areas in England,~~
- ~~(eg) the form and manner in which copies of proposed schemes for such areas are to be sent to a QCS board under section 126C(5),~~
- ~~(eh) the giving of notice, and the preparation and publication of reports, by QCS boards under section 126D(5),~~
- ~~(ei) the form and manner of responses by local transport authorities to such reports,~~
- (f) the form of schemes, continuations or variations, and
- (g) giving notice of schemes which have been made or of the continuation, variation or revocation of schemes.

(3) The appropriate national authority may also make regulations modifying or excluding the application of provisions of this Part, so far as relating to quality contracts schemes, in cases where a local transport authority, or two or more local transport authorities acting jointly, do any of the following—

- (a) ~~by virtue of section 126C(6), send to a QCS board a further request under section 126C(4) and modified proposals under section 126C(5),~~
- (b) propose or decide that a scheme should continue in operation (with or without modification) under section 131A,
- (c) propose or decide to vary or revoke a scheme under section 132.

(4) Regulations made by virtue of subsection (3) must not exclude any requirement for the authority or authorities—

- (a) under section 126, to obtain the approval of the Welsh Ministers,
- (b) ~~under section 127(1A), to publish their response to the report of the QCS board.~~

### **134 Transitional provision about schemes**

(1) The appropriate national authority may by regulations make such transitional provision as it considers appropriate in connection with—

- (a) the coming into operation of quality contracts schemes or of provisions of such schemes,
- (b) the continuation in operation or variation of such schemes, and
- (c) the ending of such schemes (whether or not as a result of their revocation).

(2) The regulations may in particular provide that in prescribed circumstances—

- (a) any provision of sections 6 to 9 of the Transport Act 1985 (registration of local services), or of sections 89 to 92 of that Act (obligation to invite tenders etc), which would otherwise have effect is not to have effect or is to have effect with such modifications as may be prescribed, or
- (b) any such provision which would not otherwise have effect is to have effect or is to have effect with such modifications as may be prescribed,

in relation to the whole or any part of the area to which the scheme relates.

(3) Any regulations made by virtue of paragraph (a) of subsection (1) are not to have effect in the case of any quality contracts scheme as respects any time before the making of the scheme.

### **134A Guidance about schemes**

(1) The appropriate national authority may issue guidance concerning the performance by local transport authorities of their functions under this Part in relation to quality contracts schemes.

(2) Those authorities must have regard to any such guidance.

### **134B Quality contracts: application of TUPE**

(1) Subsection (3) applies to a situation in which—

- (a) on the coming into force of a quality contract, local services cease to be provided by a person (the "former operator") in the area to which the relevant quality contracts scheme, or (in the case of a scheme which provides for different provisions to come into operation on different dates) the relevant provision of the scheme, relates, in accordance with section 129(1)(b), and
- (b) at the same time, a person (the "new operator") begins to provide local services in that area under that quality contract.

(2) Subsection (3) also applies to a situation in which—

- (a) local services which, on the coming into force of a quality contract, a person (the "former operator") would be required by virtue of section 129(1)(b) to cease providing in the area mentioned in subsection (1)(a) of this section, cease to be provided by the former operator before the coming into force of that quality contract, and
- (b) at the same time, a person (the "new operator") begins to provide local services in that area under an agreement which the authority or authorities who made the relevant quality contracts scheme entered into by reason of the cessation of the local services referred to in paragraph (a).

(3) Any situation to which this subsection applies is to be treated as a relevant transfer for the purposes of the Transfer of Undertakings (Protection of Employment) Regulations 2006 ("TUPE") (whether or not TUPE would apply apart from this subsection).

(4) For the purposes of TUPE, the organised grouping of employees that is subject to the relevant transfer consists of those employees of the former operator whose employment is principally connected with the provision of the local services referred to in subsection (1)(a) or (as the case may be) the local services referred to in subsection (2)(a).

(5) Any situation which by virtue of this section is treated as a relevant transfer for the purposes of TUPE is also to be treated as a relevant transfer within the meaning of TUPE for the purposes of sections 257 and 258 of the Pensions Act 2004 and any regulations made under section 258 of that Act.

- (6) The Secretary of State may make regulations supplementing the provision made by this section.
- (7) The provision that may be made by regulations under subsection (6) includes—
- (a) provision for determining, for the purposes of subsection (4), whether a person's employment is principally connected with the provision of any particular local services (including provision for or in connection with the appointment of a person to make such determination);
  - (b) provision for determining, in the case of any particular organised grouping of employees, the particular new operator who is to be the transferee for the purposes of TUPE (including provision for or in connection with the appointment of a person to make such determination);
  - (c) provision requiring any person operating local services in the area to which a quality contracts scheme relates to provide the authority or authorities who made the scheme with such information as may be prescribed, at such time as may be prescribed, about such of that person's employees as would fall within subsection (4) if the person ceased to provide those services in the circumstances described in subsection (1)(a);
  - (d) provision requiring the authority or authorities who made a quality contracts scheme to provide all persons operating local services in the area to which the scheme relates with such information as may be prescribed, at such time as may be prescribed, so as to enable such persons to comply with any requirement imposed by virtue of paragraph (c) of this subsection;
  - (e) provision requiring the authority or authorities who made a quality contracts scheme to ensure that any quality contract entered into with a person under the scheme, or any other agreement made with a person for the provision of local services in the area to which the scheme relates, is made on terms—
    - (i) that require the person, in the event of there being any transferring employees, to secure pension protection for every transferring employee, or every transferring employee of a prescribed description, who as an employee of the former operator had rights to acquire pension benefits, and
    - (ii) that, so far as relating to the securing of pension protection for a transferring employee, are enforceable by the employee.

(8) For the purposes of this section—

"transferring employee" means an employee of a former operator whose contract of employment becomes, either by virtue of TUPE or by virtue of this section, a contract of employment with a new operator;

"pension protection" is secured for a transferring employee if after the change of employer referred to in paragraph (a)—

- (i) the employee has, as an employee of the new operator, rights to acquire pension benefits, and
- (ii) those rights are of such description as is prescribed by regulations.

(9) The Secretary of State must exercise the power conferred by this section to make regulations containing provision falling within subsection (7)(e) so as to ensure—

- (a) that pension protection is required to be secured for every transferring original employee who, as an employee of the original operator, had rights to acquire pension benefits, and
- (b) that the rights to acquire pension benefits which a transferring original employee has as an employee of the new operator by virtue of paragraph (a) are rights which—
  - (i) are the same as the rights the transferring original employee had as an employee of the original operator, or
  - (ii) under provision made by regulations, count as being broadly comparable to, or better than, those rights.

(10) For the purposes of subsection (9)—

"transferring original employee" means a transferring employee—

- (a) who immediately before the relevant date was employed by a person (the "original operator") providing local services in the area to which the relevant quality contracts scheme relates, and
- (b) whose contract of employment—
  - (i) was, from that date until the change of employer referred to in subsection (8)(a), a contract of employment with the original operator, or
  - (ii) on each occasion when the employee was subject to a relevant transfer became, either by virtue of TUPE or by virtue of this section, a contract of employment with a person providing local services in the area referred to in paragraph (a);

"relevant date", in relation to a quality contracts scheme, means—

- (a) the date on which the scheme was made, or
- (b) where—
  - (i) the local services being provided by the original operator were not subject to the scheme when it was made, and
  - (ii) as a result of either the variation of the scheme, or the continuation of the scheme with modifications, those services became subject to the scheme,
 the date on which that variation, or (as the case may be) the decision to continue the scheme with those modifications, was made;

"relevant transfer" means anything that is, or is to be treated as, a relevant transfer for the purposes of TUPE.

- (11) A person is guilty of an offence under this subsection if—
- (a) the person provides information in accordance with a requirement imposed by virtue of subsection (7)(c),
  - (b) the information is false or misleading in a material particular, and
  - (c) the person knows that it is or is reckless as to whether it is.
- (12) A person who is guilty of an offence under subsection (11) is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

### *Bus services: advanced ticketing schemes*

#### **134C Advanced ticketing schemes**

(1) A local transport authority whose area is in England, or two or more such authorities acting jointly, may make a ticketing scheme (an "advanced ticketing scheme") covering the whole or any part of their area, or combined area, if they consider that the proposed scheme—

- (a) would be in the interests of the public, and
- (b) would contribute to the implementation of their local transport policies.

(2) An advanced ticketing scheme may not be made unless the authority or authorities have complied with the notice and consultation requirements imposed by section 134D.

(3) An advanced ticketing scheme is a scheme under which operators of local services of a class specified in it are required to make and implement arrangements under which persons may purchase, in a single transaction, a ticket (or tickets) of any of the descriptions which may be covered by an advanced ticketing scheme and to which the scheme applies.

(4) The descriptions of tickets which may be covered by an advanced ticketing scheme are—

- (a) tickets entitling the holder to make more than one journey on particular local services or on local services of a class specified in the scheme (whether or not operated by the same person),
- (b) tickets entitling the holder to make a particular journey on two or more local services (whether or not operated by the same person),



- (c) where a particular journey could be made on local services provided by any of two or more operators, tickets entitling the holder to make the journey on whichever service the holder chooses, and
  - (d) tickets entitling the holder to make a journey, or more than one journey, involving both travel on one or more local services and travel by one or more connecting rail or tram services.
- (5) A connecting rail or tram service, in relation to an advanced ticketing scheme, is a service for the carriage of passengers by railway or by tramway (or by both) which runs between—
- (a) a station or stopping place at or in the vicinity of which local services stop and which serves any part of the area to which the ticketing scheme relates, and
  - (b) any other place.
- (6) The arrangements in an advanced ticketing scheme may make provision for different types of ticket including, in particular—
- (a) tickets that are valid for a specified period, and
  - (b) tickets that are valid only in a specified area.
- (7) The arrangements in an advanced ticketing scheme may include—
- (a) provision about enabling tickets to be purchased or fares to be paid in particular ways,
  - (b) provision about the persons from whom tickets may be purchased or to whom fares may be paid,
  - (c) provision about enabling entitlement to travel to be evidenced in particular ways,
  - (d) provision about providing information about the arrangements to the public,
  - (e) provision about publicising local services, fares or ticketing arrangements provided or made available by any operator of a local service of a class specified in the scheme, and
  - (f) provision as to the appearance of tickets.
- (8) Different arrangements may be specified in an advanced ticketing scheme for different cases.
- (9) In carrying out their functions under this Part in relation to advanced ticketing schemes, local transport authorities whose areas are in England must co-operate with one another.
- (10) In carrying out their functions under this Part in relation to making or varying advanced ticketing schemes, local transport authorities must have regard to the desirability, in appropriate cases, of having a ticketing scheme that—
- (a) facilitates journeys between the area to which the ticketing scheme applies and adjoining areas of England, or
  - (b) facilitates the adoption of similar ticketing arrangements in adjoining areas of England.
- (11) In considering whether to make an advanced ticketing scheme under this section, a local transport authority must have regard to the desirability, in appropriate cases, of making a scheme jointly with another authority.

#### **134D Notice and consultation requirements**

- (1) If a local transport authority for an area in England, or two or more such authorities, propose to make an advanced ticketing scheme under section 134C, they must give notice of the proposed scheme in such manner as they consider appropriate for bringing it to the attention of persons in the area to which it relates.
- (2) The notice must specify the date on which the scheme is proposed to come into operation.
- (3) After giving notice of the proposed scheme, the authority or authorities must consult—
- (a) all operators of local services who would, in the opinion of the authority or authorities, be affected by it,
  - (b) such organisations appearing to the authority or authorities to be representative of users of local services as they think fit,

- (c) the Competition and Markets Authority, and
- (d) a traffic commissioner.

### **134E Making of scheme**

(1) If, after consulting in accordance with section 134D, the authority or authorities decide that it is appropriate to make the scheme, they may make it as proposed or with modifications.

(2) If the scheme applies to tickets within section 134C(4)(d), it may only be made with the agreement of the operators of the connecting rail or tram services concerned.

(3) The scheme must specify the date on which it is to come into operation, which must not be earlier than three months after the date on which it is made.

(4) Not later than 14 days after the date on which the scheme is made, the authority or authorities must give notice of the making of the scheme—

- (a) in such manner as they consider appropriate for bringing it to the attention of persons in the area to which it relates,
- (b) to a traffic commissioner,
- (c) to all operators of local services or services for the carriage of passengers by railway or by tramway (or by both) who would, in the opinion of the authority or authorities, be affected by it, and
- (d) to the Secretary of State if it applies to tickets within section 134C(4)(d).

(5) The notice must set out the terms of the scheme and the date on which it is to come into operation.

(6) The authority or authorities may vary or revoke the scheme.

(7) Sections 134C and 134D and subsections (1) to (5) of this section apply in relation to the variation or revocation of an advanced ticketing scheme as if—

- (a) a reference in those provisions to making a scheme were a reference to varying or revoking a scheme,
- (b) a reference in those provisions to the coming into operation of a scheme were a reference to the coming into operation of a scheme as varied or the ending of a scheme, and
- (c) a reference in those provisions to the authority or authorities making a scheme were a reference to the authority or authorities varying a scheme, including any authority that would be party to a scheme as varied, or revoking a scheme.

### **134F Effect of scheme**

During any period in which an advanced ticketing scheme is in operation, operators of local services to which the scheme relates must make and implement the arrangements required by the scheme.

### **134G Guidance**

(1) The Secretary of State may issue guidance concerning the exercise by local transport authorities of their functions under this Part in relation to advanced ticketing schemes.

(2) The authorities must have regard to any such guidance in exercising those functions.

*Bus services: ticketing schemes*

### **135 Joint and through ticketing schemes**

(1) A local transport authority, or two or more such authorities acting jointly, may make a ticketing scheme covering the whole or any part of their area, or combined area, if they consider that the proposed scheme—

- (a) would be in the interests of the public, and
- (b) would contribute to the implementation of their local transport policies (but this is subject to subsection (1A)).

(1A) A local transport authority whose area is in England may exercise the power to make a ticketing scheme only if—

- (c) they are acting jointly with one or more other local transport authorities, and
- (d) at least one of those other local transport authorities is an authority whose area is in Wales.

(2) A ticketing scheme may not be made unless the authority or authorities have complied with the notice and consultation requirements imposed by section 136.

(3) A ticketing scheme is a scheme under which operators of local services of a class specified in it are required to make and implement arrangements under which persons may purchase, in a single transaction, a ticket (or tickets) of any of the descriptions which may be covered by a ticketing scheme and to which the scheme applies.

(4) The descriptions of tickets which may be covered by a ticketing scheme are—

- (a) tickets entitling the holder to make more than one journey on particular local services or on local services of a class specified in the scheme (whether or not operated by the same person),
- (b) tickets entitling the holder to make a particular journey on two or more local services (whether or not operated by the same person),
- (c) where a particular journey could be made on local services provided by any of two or more operators, tickets entitling the holder to make the journey on whichever service the holder chooses, and
- (d) tickets entitling the holder to make a journey, or more than one journey, involving both travel on one or more local services and travel by one or more connecting rail or tram services.

(5) A connecting rail or tram service, in relation to a ticketing scheme, is a service for the carriage of passengers by railway or by tramway (or by both) which runs between—

- (a) a station or stopping place at or in the vicinity of which local services stop and which serves any part of the area to which the ticketing scheme relates, and
- (b) any other place.

(6) Different arrangements may be specified in a ticketing scheme for different cases.

(7) In carrying out their functions under this Part in relation to ticketing schemes, local transport authorities must co-operate with one another.

(8) In considering whether to make a ticketing scheme, a local transport authority must have regard to the desirability, in appropriate cases, of making a scheme jointly with another authority.

### **136 Notice and consultation requirements**

(1) If an authority or authorities propose to make a ticketing scheme, they must give notice of the proposed scheme in at least one newspaper circulating in the area to which it relates.

(2) The notice must specify the date on which the scheme is proposed to come into operation.

(3) After giving notice of the proposed scheme, the authority or authorities must consult—

- (a) all operators of local services who would, in the opinion of the authority or authorities, be affected by it,
- (b) such organisations appearing to the authority or authorities to be representative of users of local services as they think fit, and
- (c) a traffic commissioner.

### **137 Making of scheme**

(1) If the authority or authorities decide that it is appropriate to make the scheme, they may make it as proposed or with modifications.

(2) If the scheme applies to tickets within section 135(4)(d), it may only be made with the agreement of the operators of the connecting rail or tram services concerned.

(3) The scheme must specify the date on which it is to come into operation, which must not be earlier than three months after the date on which it is made.

(4) Not later than 14 days after the date on which the scheme is made, the authority or authorities must give notice of it—

- (a) in at least one newspaper circulating in the area to which it relates,
- (b) to a traffic commissioner,
- (c) to all operators of local services or services for the carriage of passengers by railway or by tramway (or by both) who would, in the opinion of the authority or authorities, be affected by it,
- (d) to the Secretary of State if it applies to tickets within section 135(4)(d), and
- (e) in such other manner, or to such other persons or class of person, (if any) as the appropriate national authority may prescribe by regulations.

(5) The notice must set out the terms of the scheme and the date on which it is to come into operation.

(6) The authority or authorities may vary or revoke the scheme; and the variation or revocation is subject to the same procedure as the making of the scheme, except to the extent that that procedure is modified by regulations made by the appropriate national authority.

### **138 Effect of Scheme**

During any period in which a ticketing scheme is in operation, operators of local services to which the scheme relates must make and implement the arrangements required by the scheme.

#### *Bus services: enhanced partnership plans and schemes*

### **138A Enhanced partnership plans and schemes**

(1) A local transport authority whose area is in England, or two or more such authorities acting jointly, may make—

- (a) an enhanced partnership plan in relation to the whole or part of their area, or combined area, and
- (b) one or more enhanced partnership schemes relating to the whole or part of the area to which the plan relates.

(2) A local transport authority or authorities who have made an enhanced partnership plan may make further enhanced partnership schemes relating to the whole or part of the area to which the plan relates.

(3) An enhanced partnership plan is a plan that—

- (a) specifies the area and the period to which the plan relates,
- (b) sets out an analysis of the local services provided in that area,
- (c) sets out policies relating to local services in that area,
- (d) sets out objectives as regards the quality and effectiveness of local services provided in that area by reference to that period,
- (e) describes how the related enhanced partnership scheme or schemes is or are intended to assist in implementing those policies and achieving those objectives, and

- (f) describes the intended effect of the related enhanced partnership scheme or schemes on areas neighbouring the area to which the plan relates.
- (4) An enhanced partnership plan must state whether the plan is to be reviewed and, if so—
  - (a) specify how it is to be reviewed,
  - (b) specify the dates by which reviews are to be completed.
- (5) An enhanced partnership scheme is a scheme that—
  - (a) specifies the area to which the scheme relates, and
  - (b) imposes requirements in relation to local services that have one or more stopping places in that area by specifying them in the scheme (see section 138C).
- (6) An enhanced partnership scheme may also—
  - (a) require the authority or authorities to provide particular facilities in the area to which the scheme relates (see section 138D),
  - (b) require the authority or authorities to take particular measures in relation to routes in the whole or part of that area that are served, or might be served, by local services (see section 138D), and
  - (c) include provision about its variation or revocation (see section 138E).
- (7) An enhanced partnership scheme must state whether the operation of a related enhanced partnership scheme is to be reviewed and, if so—
  - (a) specify how it is to be reviewed, and
  - (b) specify the dates by which reviews are to be completed.
- (8) An enhanced partnership scheme may not be made unless the authority or authorities are satisfied that the scheme will contribute to the implementation of—
  - (a) the policies set out in the related enhanced partnership plan, and
  - (b) their local transport policies.
- (9) An enhanced partnership scheme may not be made unless the authority or authorities are satisfied that the scheme will—
  - (a) bring benefits to persons using local services in the whole or any part of the area to which the scheme relates by improving the quality or effectiveness of those services, or
  - (b) reduce or limit traffic congestion, noise or air pollution.
- (10) An enhanced partnership plan or scheme may not be made unless the authority or authorities have complied with the requirements in—
  - (a) section 138F (preparation, notice and consultation), and
  - (b) section 138G(1) to (4) (making of plan and scheme).
- (11) An enhanced partnership plan may not be made without also making an enhanced partnership scheme.
- (12) In carrying out their functions under this Part in relation to enhanced partnership plans or schemes local transport authorities must cooperate with each other.
- (13) Before making an enhanced partnership plan, a local transport authority must have regard to the desirability, in appropriate cases, of making an enhanced partnership plan and enhanced partnership schemes jointly with one or more other local transport authorities.

### **138B Further parties to a scheme**

- (1) Subsection (2) applies if—
  - (a) the provision of any of the facilities specified in an enhanced partnership scheme, or
  - (b) the taking of any of the measures specified in such a scheme,
 requires the making of a traffic regulation order in respect of a road or other place in a metropolitan district (other than a road for which the Secretary of State is the traffic authority).

(2) Where this subsection applies, the scheme may not be made unless it is made by—

- (a) the local transport authority or authorities, and
- (b) the metropolitan district council for the district,

acting jointly.

(3) Subsection (4) applies if—

- (a) the provision of any of the facilities specified in an enhanced partnership scheme, or
- (b) the taking of any of the measures specified in such a scheme, requires the making of a traffic regulation order in respect of a road for which the Secretary of State is the traffic authority.

(4) Where this subsection applies, the scheme may not be made unless it is made by—

- (a) the local transport authority or authorities, and
- (b) the Secretary of State,

acting jointly.

(5) Where subsection (2) or (4) applies so that a metropolitan district council or the Secretary of State makes an enhanced partnership scheme, then (subject to section 138N) the references to the authority or authorities in—

- (a) sections 138A(6) and (10), 138F to 138M and 138O, and
- (b) paragraph 27(3) of Schedule 9 to the Road Traffic Regulation Act 1984,

include (as well as the local transport authority or authorities) the metropolitan district council or the Secretary of State.

### **138C Requirements in respect of local services**

(1) An enhanced partnership scheme may specify under section 138A(5)(b) requirements about the frequency or timing of particular local services or local services of particular descriptions.

(2) A requirement falling within subsection (1) may, in particular, determine the frequency or timing allowed in relation to a local service—

- (a) by reference only to that service, or
- (b) by reference to that service and other local services, taken together.

(3) An enhanced partnership scheme may specify under section 138A(5)(b) other requirements as to the standard of services to be provided.

(4) The other requirements referred to in subsection (3) include—

- (a) requirements which the vehicles being used to provide local services, or particular descriptions of local services, must meet,
- (b) requirements about enabling tickets to be purchased or fares to be paid in particular ways,
- (c) requirements about enabling entitlement to travel to be evidenced in particular ways,
- (d) requirements about providing information to the public about local services or particular descriptions of local services,
- (e) requirements as to the publicising of local services, fares or ticketing arrangements or particular descriptions of local services, fares or ticketing arrangements,
- (f) requirements as to the appearance of tickets for local services or particular descriptions of local services,
- (g) requirements as to the appearance of vehicles being used to provide local services or particular descriptions of local services,
- (h) requirements as to the prices of multi-operator tickets,
- (i) requirements as to dates upon which operators may change the timing of local services or particular descriptions of local services, and

- (j) requirements as to ticketing arrangements.
- (5) The requirements that may be specified under subsection (4)(a) include requirements about providing information to passengers by placing particular electronic equipment, or electronic equipment of particular descriptions, in vehicles.
- (6) The requirements that may be specified under subsection (4)(b) include requirements about the persons from whom tickets may be purchased or to whom fares may be paid.
- (7) The requirements that may be specified under subsection (4)(j) include—
- (a) requirements to make arrangements for—
    - (i) travel to, within or through particular areas,
    - (ii) travel at particular times,
    - (iii) travel on particular local services or particular descriptions of local services,
    - (iv) travel on particular journeys or on particular descriptions of journey, or
    - (v) travel by persons of particular descriptions,
  - (b) requirements to make arrangements entitling persons to make a journey, or journeys, involving both travel on one or more local services and travel by one or more connecting rail or tram services, and
  - (c) requirements about the terms and conditions upon which such travel is made available.
- (8) A connecting rail or tram service, in relation to an enhanced partnership scheme, is a service for the carriage of passengers by railway or by tramway (or by both) which runs between—
- (a) a station or stopping place at or in the vicinity of which local services stop and which serves any part of the area to which the scheme relates, and
  - (b) any other place.
- (9) The requirements that may be specified under subsection (4)(j) include—
- (a) requirements about operators making provision for—
    - (i) travel to, within or through particular areas,
    - (ii) travel at particular times,
    - (iii) travel on particular local services or particular descriptions of local services,
    - (iv) travel on particular journeys or on particular descriptions of journey, or
    - (v) travel by persons of particular descriptions, and
  - (b) requirements about the terms and conditions upon which such travel is made available.
- (10) The requirements that may be specified in an enhanced partnership scheme also include requirements as to operators of local services establishing and operating arrangements that facilitate the operation of the scheme.
- (11) A requirement imposed by an enhanced partnership scheme has effect only in relation to so much of a local service as is provided in the area to which the scheme relates.
- (12) An enhanced partnership scheme may not impose requirements in relation to the use of vehicles under permits granted under section 22 of the Transport Act 1985.
- (13) In this section “multi-operator ticket” means a ticket, or a number of tickets purchased in a single transaction, entitling the holder to make a journey that involves or may involve, or journeys that involve or may involve, the use of local services provided by more than one operator.

### **138D Facilities and measures**

- (1) The facilities which may be specified in an enhanced partnership scheme—
  - (a) must be facilities provided at specific locations along routes served, or proposed to be served, by local services within the enhanced partnership area, or facilities which are ancillary to such facilities, but
  - (b) may not be facilities which are required to be provided as a result of section 139 or 140.

- (2) The measures which may be specified in an enhanced partnership scheme—
- (a) must be measures taken for the purpose of—
    - (i) increasing the use of local services serving the routes to which the measures relate or ending or reducing a decline in the use of such services, or
    - (ii) improving the quality of local services serving the routes to which the measures relate, but
  - (b) may not include the provision of such facilities as are described in subsection (1)(a) or as are required to be provided as a result of section 139 or 140.
- (3) The Secretary of State may by regulations make further provision about the measures which may or may not be specified in an enhanced partnership scheme.

### **138E Conditions relating to variation or revocation**

- (1) An enhanced partnership scheme may specify cases in which the scheme may be varied or revoked in accordance with the scheme.
- (2) The scheme may provide for variation or revocation in a particular case to be subject to satisfying such conditions as the scheme specifies.
- (3) The cases that may be specified under subsection (1) as regards variation include cases where the variations in question consist only of such descriptions of variation as are specified in the scheme.
- (4) The conditions that may be specified under subsection (2) include conditions prohibiting variation or revocation where a number of operators of local services disagree to the variation or revocation.

### **138F Preparation, notice and consultation**

- (1) If a local transport authority or authorities propose to make an enhanced partnership plan and scheme, they must—
- (a) give notice of their intention to prepare a plan and scheme in such manner as they consider appropriate for bringing it to the attention of persons in their area or combined area,
  - (b) prepare a plan and scheme for consultation,
  - (c) give notice of the plan and scheme prepared to the persons who are operators of qualifying local services in the area to which the plan relates on the relevant day, and
  - (d) give notice of the proposal to make the plan and scheme in such manner as they consider appropriate for bringing it to the attention of persons in their area or combined area.
- (2) A notice under subsection (1)(c) must—
- (a) contain full details of the plan and scheme prepared,
  - (b) state the effect of subsection (5), and
  - (c) state the period within which objections may be made (which may not be less than 28 days).
- (3) A notice under subsection (1)(d) must—
- (a) contain full details of the plan and scheme proposed, or
  - (b) state where such details may be inspected.
- (4) A local transport authority or authorities proposing to make an enhanced partnership plan and scheme must—
- (a) invite operators of qualifying local services in the area to which the plan relates to participate in the preparation of the plan and scheme before starting to prepare them, and
  - (b) invite any person who becomes an operator of a qualifying local service in the area to which the plan relates while the plan and scheme are being prepared to participate in that



- preparation (including any person who becomes such an operator because of a change in the area to which the plan relates while the plan is being prepared).
- (5) A local transport authority or authorities may not give notice of a proposal under subsection (1)(d) if, within the period for objections stated in the notice under subsection (1)(c)—
- (a) a sufficient number of the persons who, on the relevant day, are operators of qualifying local services in the area to which the plan relates object to the plan prepared, or
  - (b) a sufficient number of the persons who, on the relevant day, are operators of qualifying local services in the area to which the scheme relates object to the scheme prepared.
- (6) After giving notice of the proposed plan and scheme under subsection (1)(d), the authority or authorities must consult—
- (a) all operators of local services who would, in the opinion of the authority or authorities, be affected by them,
  - (b) such organisations appearing to the authority or authorities to be representative of users of local services as they think fit,
  - (c) any other relevant local authority any part of whose area would, in the opinion of the authority or authorities, be affected by them,
  - (d) a traffic commissioner,
  - (e) the chief officer of police for each police area covering the whole or part of the area to which the plan relates,
  - (f) the Competition and Markets Authority, and
  - (g) such other persons as the authority or authorities think fit.
- (7) For the purpose of subsection (6)(c) the following are relevant local authorities—
- (a) local transport authorities,
  - (b) district councils in England,
  - (c) London transport authorities, and
  - (d) councils in Scotland.
- (8) If a local transport authority or authorities propose to make a scheme or schemes relating to an existing enhanced partnership plan, subsections (1) to (7) have effect as if—
- (a) references to a proposed plan and scheme were references to a proposed scheme or schemes, and
  - (b) subsection (5)(a) were omitted.
- (9) If a local transport authority or authorities propose to make two or more schemes at the same time (whether at the same time as making a plan or in relation to an existing plan), subsection (5)(b) has effect as if references to the scheme were references to one of the schemes in question.
- (10) The Secretary of State may by regulations—
- (a) specify the descriptions of local services that are qualifying local services for the purposes of this section, and
  - (b) specify what constitutes a sufficient number of persons for the purposes of subsection (5)(a) or (b).
- (11) Regulations under subsection (10)(b) may, in particular—
- (a) require that a plan or scheme be objected to by such number of persons as, together, provide at least such proportion of the qualifying local services in the area in question as is specified in the regulations, in addition to being at least such proportion of the persons providing those services as is specified in the regulations, and
  - (b) make provision about determining the proportion of qualifying local services provided by an operator, including provision about the time by reference to which the proportion is to be determined.

(12) In this section “the relevant day”, in relation to an enhanced partnership plan or scheme prepared by a local transport authority or authorities under subsection (1)(b), means the day before the authority or authorities send out a notice relating to that plan or scheme in accordance with subsection (1)(c).

### **138G Making of plans and schemes**

(1) If, after complying with section 138F as regards a proposal to make an enhanced partnership plan and scheme, a local authority or authorities consider it appropriate to make the plan and scheme, they may make them as proposed or with modifications.

(2) If the authority or authorities intend to make the plan and scheme with modifications of one or both of them, the authority or authorities must give notice of their intention to make the plan and scheme, with modifications, to the persons who are operators of qualifying local services in the area to which the plan relates on the relevant day.

(3) A notice under subsection (2) must—

- (a) contain full details of the plan and scheme,
- (b) state the effect of subsection (4), and
- (c) state the period within which objections may be made (which may not be less than 28 days).

(4) The authority or authorities may not make the plan and scheme with modifications if, within the period for objections stated in the notice under subsection (2)—

- (a) a sufficient number of the persons who, on the relevant day, are operators of qualifying local services in the area to which the plan relates object to the plan, or
- (b) a sufficient number of the persons who, on the relevant day, are operators of qualifying local services in the area to which the scheme relates object to the scheme.

(5) Not later than 14 days after the date on which a local transport authority or authorities make an enhanced partnership plan and scheme, the authority or authorities must give notice of the making of the plan and scheme—

- (a) in such manner as they consider appropriate for bringing it to the attention of persons in their area or combined area,
- (b) to all operators of local services who would, in the opinion of the authority or authorities, be affected by the scheme, and
- (c) to a traffic commissioner.

(6) The notice must—

- (a) contain full details of the plan and scheme or state where such details may be inspected, and
- (b) if the plan or scheme made is a modified version of the plan or scheme that was proposed, state that it is a modified version.

(7) If the proposal of a local transport authority or authorities is to make a scheme or schemes relating to an existing enhanced partnership plan, subsections (1) to (6) have effect as if—

- (a) references to a plan and scheme were references to a scheme or schemes, and
- (b) subsection (4)(a) were omitted.

(8) If the proposal of a local transport authority or authorities is to make two or more schemes at the same time (whether at the same time as making a plan or in relation to an existing plan), subsection (4)(b) has effect as if references to the scheme were references to one of the schemes in question.

(9) The Secretary of State may by regulations—

- (a) specify the descriptions of local services that are qualifying local services for the purposes of this section, and

- (b) specify what constitutes a sufficient number of persons for the purposes of subsection (4)(a) or (b).

(10) Regulations under subsection (9)(b) may, in particular—

- (a) require that a plan or scheme be objected to by such number of persons as, together, provide at least such proportion of the qualifying local services in the area in question as is specified in the regulations, in addition to being at least such proportion of the persons providing those services as is specified in the regulations, and
- (b) make provision about determining the proportion of qualifying local services provided by an operator, including provision about the time by reference to which the proportion is to be determined.

(11) In this section “the relevant day”, in relation to a plan or scheme that a local transport authority or authorities intend to make, means the day before the authority or authorities send out notices relating to that plan or scheme in accordance in subsection (2).

### **138H Content of scheme**

(1) If a local transport authority or authorities make a scheme, the scheme must specify—

- (a) the requirements imposed under it,
- (b) the facilities (if any) to be provided under it by the authority or authorities,
- (c) the measures (if any) to be taken under it by the authority or authorities,
- (d) the provision (if any) about variation or revocation of the plan or scheme,
- (e) the date on which it is to come into operation, and
- (f) the period for which it is to remain in operation.

(2) The scheme must also specify—

- (a) if a requirement imposed under the scheme is to have effect as from a date after the scheme comes into operation, the date as from which it has effect,
- (b) if any facilities are to be provided under the scheme as from a date after the scheme comes into operation, the date as from which they are to be so provided,
- (c) if any measures to be taken under the scheme as from a date after the scheme comes into operation, the date as from which they are to be so taken,
- (d) if a condition under section 138E is to apply as from a date after the scheme comes into operation the date as from which it applies, and
- (e) if a condition under section 138E is to cease to apply as from a particular date, the date as from which it ceases to apply.

(3) Subject to regulations under section 138P, the scheme may provide that—

- (a) local services specified in it, or
- (b) local services of a class specified in it,

are to be excluded from the scheme.

### **138I Postponement of scheme or part of scheme**

(1) If it appears to a local transport authority or authorities that have made an enhanced partnership scheme appropriate to do so, they may decide that any of the dates specified in subsection (3) are to be postponed by such period as they think fit.

(2) A date may not be postponed under subsection (1) by a period or periods which in total exceed 12 months.

(3) The dates are—

- (a) the date on which the scheme is to come into operation,
- (b) the date as from which any particular requirement is to be imposed under the scheme,

- (c) the date as from which any particular facilities are to be provided under the scheme,
  - (d) the date as from which any particular measures are to be taken under the scheme, and
  - (e) the date as from which any particular condition under section 138E applies.
- (4) Before making such a decision they must consult all operators of local services who would, in their opinion, be affected by the scheme.
- (5) Not later than 14 days after the date on which any such decision is made they must give notice of the making of the decision—
- (a) in such manner as they consider appropriate for bringing it to the attention of persons in their area or combined area,
  - (b) to all operators of local services who would, in their opinion, be affected by the scheme, and
  - (c) to a traffic commissioner.
- (6) The notice must include a statement of their reasons for the decision.

### **138J Effect of plans and schemes**

- (1) If an enhanced partnership scheme made by a local transport authority or authorities requires them to provide particular facilities, they must—
- (a) provide each of the specified facilities not later than the date specified for its provision under the scheme (subject to section 138I), and
  - (b) continue to provide it throughout the remainder of the period for which the scheme is in operation.
- (2) Subsection (1) does not apply in relation to any period during which the authority or authorities are temporarily unable to provide the facilities because of circumstances beyond their control.
- (3) Subsection (1) does not apply in the case of the Secretary of State if the Secretary of State is unable to provide the facilities because of the variation or revocation of a traffic regulation order.
- (4) If an enhanced partnership scheme made by a local transport authority or authorities requires them to take particular measures, they must—
- (a) take each of the specified measures not later than the date specified for taking it under the scheme (subject to section 138I), and
  - (b) continue to take those measures throughout the remainder of the period for which the scheme is in operation.
- (5) Subsection (4) does not apply in relation to any period during which the authority or authorities are temporarily unable to take those measures because of circumstances beyond their control.
- (6) Subsection (4) does not apply in the case of the Secretary of State if the Secretary of State is unable to take the measures because of the variation or revocation of a traffic regulation order.
- (7) Subsection (8) applies if the enhanced partnership plan or scheme made by a local transport authority or authorities makes provision about—
- (a) one or more reviews of the plan, or
  - (b) one or more reviews of the operation of the scheme.
- (8) The authority or authorities must secure that the review or each review—
- (a) is carried out in the manner specified in the plan or scheme, and
  - (b) is completed by the date specified in the plan or scheme as the date for completing that review.
- (9) If a requirement applies to a local service, the operator of the service must comply with that requirement.

(10) Subsection (9) does not apply in relation to services which are excluded from the scheme because of any provision of the scheme made in accordance with section 138H(3).

### **138K Variation**

(1) A local transport authority or authorities who made an enhanced partnership plan or scheme may vary the plan or scheme.

(2) An enhanced partnership plan may, in particular, be varied by changing the area to which the plan relates so that—

- (a) it includes the whole or a part of the area of another local transport authority, or
- (b) it ceases to include any part of the area of a local transport authority.

(3) An enhanced partnership plan or scheme may not be varied unless the authority or authorities have complied with the requirements in—

- (a) section 138L (preparation, notice and consultation), and
- (b) section 138M(1) to (5) (making the variation).

(4) An enhanced partnership scheme may not be varied unless the authority or authorities are satisfied that the scheme, as varied, will contribute to the implementation of—

- (a) the policies set out in the related enhanced partnership plan (or those policies as proposed to be varied, if the scheme and the policies in the plan are being varied at the same time), and
- (b) their local transport policies.

(5) An enhanced partnership scheme may not be varied unless the authority or authorities are satisfied that the scheme, as varied, will—

- (a) bring benefits to persons using local services in the whole or any part of the enhanced partnership area by improving the quality or effectiveness of those services, or
- (b) reduce or limit traffic congestion, noise or air pollution.

(6) If a variation of an enhanced partnership plan includes the addition of any part of the area of another local transport authority, the requirements referred to in subsection (3) apply also to that authority.

(7) Nothing in this section prevents an enhanced partnership scheme being varied, in accordance with the scheme, in such cases as are allowed by the scheme (see section 138E).

(8) Before varying an enhanced partnership plan, a local transport authority must have regard to the desirability, in appropriate cases, of varying a plan so as to include in the area to which the plan relates any part of the area of one or more other local transport authorities.

### **138L Variation: preparation, notice and consultation**

(1) If a local transport authority or authorities propose to vary an enhanced partnership plan or scheme, they must—

- (a) give notice of their intention to prepare changes to the plan or scheme in such manner as they consider appropriate for bringing it to the attention of persons in their area or combined area,
- (b) prepare the changes,
- (c) give notice of the changes prepared to the persons who are operators of qualifying local services in the area to which the plan (or the plan as proposed to be varied) relates on the relevant day, and
- (d) give notice of the proposal to vary the plan or scheme in such manner as they consider appropriate for bringing it to the attention of persons in their area or combined area.

(2) notice under subsection (1)(c) must—

- (a) contain full details of the changes prepared,
- (b) state the effect of subsection (5), and

- (c) state the period within which objections may be made (which may not be less than 28 days).
- (3) A notice under subsection (1)(d) must—
  - (a) contain full details of the changes, or
  - (b) state where such details may be inspected.
- (4) The authority or authorities must—
  - (a) invite operators of qualifying local services to participate in the preparation of the changes before starting to prepare them, and
  - (b) invite any person who becomes an operator of a qualifying local service while the changes are being prepared to participate in their preparation.
- (5) A local transport authority or authorities may not give notice of a proposal under subsection (1)(d) if, within the period for objections given in the notice under subsection (1)(c)—
  - (a) a sufficient number of the persons who are operators of qualifying local services in the area to which the plan relates on the relevant day object to the changes prepared for the plan (if changes to a plan are prepared), or
  - (b) a sufficient number of the persons who are operators of qualifying local services in the area to which the scheme relates on the relevant day object to the changes prepared for the scheme (if changes to a scheme are prepared).
- (6) After giving notice of the proposed plan and scheme (or proposed scheme) under subsection (1)(d), the authority or authorities must consult the Competition and Markets Authority.
- (7) If a local authority or authorities propose to vary two or more enhanced partnership schemes at the same time, subsection (5)(b) has effect as if references to the scheme were references to one of the schemes in question.
- (8) The Secretary of State may by regulations—
  - (a) specify the descriptions of local services that are qualifying local services for the purposes of this section, and
  - (b) specify what constitutes a sufficient number of persons for the purposes of subsection (5)(a) or (b).
- (9) Regulations under subsection (8)(b) may, in particular—
  - (a) require that changes to a plan or scheme be objected to by such number of persons as, together, provide at least such proportion of the qualifying local services in the area in question as is specified in the regulations, in addition to being at least such proportion of the persons providing those services as is specified in the regulations, and
  - (b) make provision about determining the proportion of qualifying local services provided by an operator, including provision about the time by reference to which the proportion is to be determined.
- (10) In this section “the relevant day”, in relation to changes to an enhanced partnership plan or scheme prepared by a local transport authority or authorities under subsection (1)(b), means the day before the authority or authorities send out a notice relating to that plan or scheme in accordance with subsection (1)(c).

### **138M Variation: making the variation**

- (1) This section applies if a local transport authority or authorities have complied with the requirements of section 138L as regards a proposal to vary an enhanced partnership plan or scheme.
- (2) If the authority or authorities consider it appropriate to vary the plan or scheme, they may vary the plan or scheme as proposed or with modifications.
- (3) Before varying the plan or scheme, the authorities must give notice of their intention to vary the plan or scheme, as proposed or with modifications, to persons who were operators of qualifying local services at the qualifying time.

- (4) The notice under subsection (3) must—
- (a) contain full details of the variation or state where such details may be inspected,
  - (b) if the variation made is a modified version of the variation that was proposed, state that it is a modified version,
  - (c) state the effect of subsection (5), and
  - (d) specify the period within which persons who are operators of qualifying local services at the qualifying time may object to the proposed variation.
- (5) The authority or authorities may not vary the plan or scheme (with or without modifications) if a sufficient number of the persons who were operators of qualifying local services at the qualifying time object to the variation.
- (6) Not later than 14 days after the date on which the variation of the plan or scheme is made, the authority or authorities must give notice of the variation—
- (a) in such manner as they consider appropriate for bringing it to the attention of persons in their area or combined area,
  - (b) to all operators of local services who would, in the opinion of the authority or authorities, be affected by it, and
  - (c) to a traffic commissioner.
- (7) The notice must—
- (a) contain full details of the variation or state where such details may be inspected, and
  - (b) if the variation made is a modified version of the variation that was proposed, state that it is a modified version.
- (8) The Secretary of State may by regulations—
- (a) specify the descriptions of local services that are qualifying local services for the purposes of this section,
  - (b) provide for the determination of the qualifying time for the purposes of this section,
  - (c) specify the minimum period which may be specified under subsection (4)(d),
  - (d) specify what constitutes a sufficient number of persons for the purposes of subsection (5), and
  - (e) specify how a person's objection is to be evidenced.
- (9) Regulations under subsection (8)(d) may, in particular—
- (a) require that a proposed variation be objected to by such number of persons as, together, provide at least such proportion of the qualifying local services as is specified in the regulations, in addition to being at least such proportion of the persons providing those services as is specified in the regulations, and
  - (b) make provision about determining the proportion of qualifying local services provided by an operator, including provision about the time by reference to which the proportion is to be determined.

### **138N Variation: supplementary**

- (1) The relevant references (apart from the relevant references in section 138A(8) and (9)) to the authority or authorities in relation to an enhanced partnership scheme—
- (a) include a traffic regulation authority if it has been varied so that it specifies traffic regulation facilities or measures, but
  - (b) do not include a traffic regulation authority if it has been varied so that it no longer specifies such facilities or measures.
- (2) But if (although the scheme does not specify facilities or measures which are traffic regulation facilities or measures in relation to a traffic regulation authority) it would do by reason of a proposed variation, those references to the authority or authorities in relation to an enhanced partnership scheme (apart from the relevant references in section 138J) include that authority.

(3) And if (although the scheme specifies facilities or measures which are traffic regulation facilities in relation to a traffic regulation authority)—

- (a) the traffic regulation order, or (where more than one) each of the traffic regulation orders, required to be made by that authority for the provision of those facilities or measures has been revoked, and
- (b) the scheme is proposed to be varied (but not so that it specifies other facilities or measures which are traffic regulation facilities in relation to that authority),

the relevant references the authority or authorities in relation to an enhanced partnership scheme (apart from those in section 138J) do not include that authority.

(4) For the purposes of this section the relevant references are those in—

- (a) sections 138A(1) to (10), 138F to 138M and 138O, and
- (b) paragraph 27(3) of Schedule 9 to the Road Traffic Regulation Act 1984.

(5) For the purposes of this section—

- (a) facilities are traffic regulation facilities, in relation to a traffic regulation authority and an enhanced partnership scheme, if that authority was required to be a maker of the scheme because it originally specified those facilities or would have been required to be a maker of it had it done so, and
- (b) measures are traffic regulation measures, in relation to a traffic regulation authority and an enhanced partnership scheme, if that authority was required to be a maker of the scheme because it originally specified those measures or would have been required to be a maker of it had it done so.

(6) In this section “traffic regulation authority” means—

- (a) a metropolitan district council, or
- (b) the Secretary of State.

### **138O Revocation**

(1) A local transport authority or authorities may, if they consider it appropriate to do so—

- (a) revoke an enhanced partnership plan that relates to the whole or any part of their area or combined area, and
- (b) revoke an enhanced partnership scheme relating to such a plan.

(2) A local transport authority or authority may not—

- (a) revoke an enhanced partnership plan without also revoking all enhanced partnership schemes relating to it, or
- (b) revoke all enhanced partnership schemes relating to an enhanced partnership plan without also revoking the plan.

(3) A local transport authority or authorities may not revoke an enhanced partnership plan or scheme unless they have complied with subsections (4) to (8).

(4) A local transport authority or authorities must give notice of a proposal to revoke an enhanced partnership plan or scheme in such manner as they consider appropriate for bringing it to the attention of persons in their area or combined area.

(5) After giving notice under subsection (4), the authority or authorities must consult—

- (a) operators of qualifying local services,
- (b) the Competition and Markets Authority, and
- (c) such other persons as the authority or authorities think fit.

(6) If, after consulting those persons, the authority or authorities wish to revoke the plan or scheme, they must give notice of their intention to revoke the plan or scheme to persons who were operators of qualifying local services at the qualifying time.

(7) The notice under subsection (6) must—



- (a) state the date on which the plan or scheme is to be revoked,
  - (b) state the authority's or authorities' reasons for revoking the plan or scheme,
  - (c) state the effect of subsection (8), and
  - (d) specify the period within which persons who are operators of qualifying local services at the qualifying time may object to the revocation.
- (8) The authority or authorities may not revoke the plan or scheme if a sufficient number of the persons who were operators of qualifying local services at the qualifying time object to the revocation of the plan or (as the case may be) the scheme.
- (9) Not later than 14 days after the date on which the plan or scheme is revoked, the authority or authorities must give notice of the revocation—
- (a) in such manner as they consider appropriate for bringing it to the attention of persons in their area or combined area,
  - (b) to all operators of local services who would, in the opinion of the authority or authorities, be affected by the revocation, and
  - (c) to a traffic commissioner.
- (10) Nothing in subsections (3) to (8) prevents an enhanced partnership scheme being revoked, in accordance with the scheme, in such cases as are allowed by the scheme (see section 138E).
- (11) The Secretary of State may by regulations—
- (a) specify the descriptions of local services that are qualifying local services for the purposes of this section,
  - (b) provide for the determination of the qualifying time for the purposes of this section,
  - (c) specify the minimum period which may be specified under subsection (7)(d),
  - (d) specify what constitutes a sufficient number of persons for the purposes of subsection (8), and
  - (e) specify how a person's objection is to be evidenced.
- (12) Regulations under subsection (11)(d) may, in particular—
- (a) require that the revocation of a plan or scheme be disagreed to by such number of persons as, together, provide at least such proportion of the qualifying local services as is specified in the regulations, in addition to being at least such proportion of the persons providing those services as is specified in the regulations, and
  - (b) make provision about determining the proportion of qualifying local services provided by an operator, including provision about the time by reference to which the proportion is to be determined.

### **138P Regulations about plans and schemes**

- (1) The Secretary of State may by regulations make further provision with respect to—
- (a) the procedure to be followed when making, varying or revoking enhanced partnership plans or schemes,
  - (b) the content or operation of schemes which include a requirement falling within section 138C(1),
  - (c) the local services or classes of local services which must be, or may be, excluded from schemes,
  - (d) the making of traffic regulation orders in connection with schemes, and
  - (e) such other incidental matters in connection with schemes as the Secretary of State thinks fit.
- (2) The regulations may in particular make provision with respect to—
- (a) giving notice of proposed schemes or proposed variations or revocations of enhanced partnership plans or schemes,

- (b) objections to such proposals,
- (c) modifications of such proposals,
- (d) the form of plans, schemes or variations, and
- (e) giving notice of plans or schemes which have been made or of the variation or revocation of plans or schemes.

### **138Q Transitional provision about schemes**

(1) The Secretary of State may by regulations make such transitional provision as the Secretary of State considers appropriate in connection with—

- (a) the making of enhanced partnership plans and schemes,
- (b) the coming into operation of provisions of enhanced partnership plans and schemes,
- (c) the variation of enhanced partnership plans and schemes, and
- (d) the revocation of enhanced partnership plans and schemes.

(2) The regulations may in particular provide that in prescribed circumstances—

- (a) any provision of sections 6 to 9 of the Transport Act 1985 (registration of local services), or of sections 89 to 92 of that Act (obligation to invite tenders for subsidised services etc), which would otherwise have effect is not to have effect or is to have effect with such modifications as may be prescribed, or
- (b) any such provision which would not otherwise have effect is to have effect or is to have effect with such modifications as may be prescribed, in relation to the whole or any part of the area to which the scheme relates.

(3) The regulations may in particular provide for the application of requirements imposed under section 138A(5)(b) to local services that were registered under section 6 of the Transport Act 1985 before the requirements came into force.

(4) Regulations made by virtue of subsection (3) may in particular—

- (a) make provision about recording requirements that apply to local services with the registered particulars of those local services;
- (b) make provision requiring the local transport authority or authorities that made an enhanced partnership scheme to notify a traffic commissioner of the local services or the descriptions of local services to which each requirement specified in the scheme would apply, subject to such exceptions as may be prescribed;
- (c) make provision for the cancellation of the registration of local services that could not be provided in accordance with requirements falling within section 138C(1);
- (d) make provision about the determination by the local transport authority or authorities that made an enhanced partnership scheme of what local services may be registered under section 6 of the Transport Act 1985 in place of local services whose registrations are cancelled under paragraph (c), including provision for awarding contracts authorising the provision of local services or local services of particular descriptions;
- (e) make provision as to the period during which the registration, or variation of registration, of local services is subject to provision under paragraph (d);
- (f) make provision for cancellation under paragraph (c) to be revoked if prescribed conditions are satisfied, including conditions relating to the variation or cancellation under section 6 of the Transport Act 1985 of the registration of one or more of the local services affected;
- (g) make provision for the time at which cancellation under paragraph (c) becomes effective to be postponed in prescribed circumstances;
- (h) make provision for operators of local services to appeal against—
  - (i) a requirement being recorded in respect of a local service under paragraph (a);
  - (ii) a cancellation of the registration of a local service under paragraph (c).

(5) In this section “registered particulars”, in relation to a local service, means the particulars of the service required to be registered under section 6 of the Transport Act 1985.

### **138R Guidance about plans and schemes**

(1) The Secretary of State may issue guidance concerning the carrying out by local transport authorities and metropolitan district councils of their functions under this Part in relation to enhanced partnership plans and schemes.

(2) Those authorities and councils must have regard to any such guidance.

### **138S Application of TUPE**

(1) Subsection (3) applies to a situation in which—

- (a) on the coming into force of an awarded contract, one or more local services cease to be provided by a person (the “former operator”) in the area to which the relevant enhanced partnership scheme relates because the cancellation of the registration of the service or services under a relevant provision becomes effective, and
- (b) at the same time, a person (the “new operator”) begins to provide one or more local services in that area by virtue of that awarded contract.

(2) Subsection (3) also applies to a situation in which—

- (a) one or more local services which, on the coming into force of an awarded contract, a person (the “former operator”) would be required to cease providing in the area mentioned in subsection (1)(a) of this section because the cancellation of the registration of the service or services under a relevant provision would have become effective, cease to be provided by the former operator before the coming into force of that awarded contract, and
- (b) at the same time, a person (the “new operator”) begins to provide one or more local services in that area under an agreement which the authority or authorities who made the relevant enhanced partnership scheme entered into by reason of the cessation of the local service or services referred to in paragraph (a).

(3) Any situation to which this subsection applies is to be treated as a relevant transfer for the purposes of the Transfer of Undertakings (Protection of Employment) Regulations 2006 (“TUPE”) (whether or not TUPE would apply apart from this subsection).

(4) For the purposes of TUPE, the organised grouping of employees that is subject to the relevant transfer consists of those employees of the former operator whose employment is principally connected with the provision of the local services referred to in subsection (1)(a) or (as the case may be) the local services referred to in subsection (2)(a).

(5) Any situation which by virtue of this section is treated as a relevant transfer for the purposes of TUPE is also to be treated as a relevant transfer within the meaning of TUPE for the purposes of—

- (a) sections 257 and 258 of the Pensions Act 2004, and
- (b) any regulations made under section 258 of that Act.

(6) The Secretary of State may make regulations supplementing the provision made by this section.

(7) The provision that may be made by regulations under subsection (6) includes—

- (a) provision for determining, for the purposes of subsection (4), whether a person’s employment is principally connected with the provision of any particular local services (including provision for or in connection with the appointment of a person to make such determination);
- (b) provision for determining, in the case of any particular organised grouping of employees, the particular new operator who is to be the transferee for the purposes of TUPE (including provision for or in connection with the appointment of a person to make such determination);

- (c) provision requiring any person operating local services in the area to which an enhanced partnership scheme relates to provide the authority or authorities who made the scheme with such information as may be prescribed, at such time as may be prescribed, about such of that person's employees as would fall within subsection (4) if the person ceased to provide those services in the circumstances described in subsection (1)(a);
  - (d) provision requiring the authority or authorities who made an enhanced partnership scheme to provide all persons operating local services in the area to which the scheme relates with such information as may be prescribed, at such time as may be prescribed, so as to enable such persons to comply with any requirement imposed by virtue of paragraph (c) of this subsection;
  - (e) provision requiring the authority or authorities who made an enhanced partnership scheme to ensure that any awarded contract entered into with a person because of the scheme, or any other agreement made with a person for the provision of local services in the area to which the scheme relates, is made on terms—
    - (i) that require the person, in the event of there being any transferring employees, to secure pension protection for every transferring employee, or every transferring employee of a prescribed description, who as an employee of the former operator had rights to acquire pension benefits, and
    - (ii) that, so far as relating to the securing of pension protection for a transferring employee, are enforceable by the employee.
- (8) For the purposes of this section—
- (a) “transferring employee” means an employee of a former operator whose contract of employment becomes, either by virtue of TUPE or by virtue of this section, a contract of employment with a new operator;
  - (b) “pension protection” is secured for a transferring employee if after the change of employer referred to in paragraph (a)—
    - (i) the employee has, as an employee of the new operator, rights to acquire pension benefits, and
    - (ii) those rights are of such description as is prescribed by regulations.
- (9) The Secretary of State must exercise the power conferred by this section to make regulations containing provision falling within subsection (7)(e) so as to ensure—
- (a) that pension protection is required to be secured for every transferring original employee who, as an employee of the original operator, had rights to acquire pension benefits, and
  - (b) that the rights to acquire pension benefits which a transferring original employee has as an employee of the new operator by virtue of paragraph (a) are rights which—
    - (i) are the same as the rights the transferring original employee had as an employee of the original operator, or
    - (ii) under provision made by regulations, count as being broadly comparable to, or better than, those rights.
- (10) For the purposes of subsection (9)—
- “transferring original employee” means a transferring employee—
- (a) who immediately before the relevant date was employed by a person (the “original operator”) providing local services in the area to which the relevant enhanced partnership scheme relates, and
  - (b) whose contract of employment—
    - (i) was, from that date until the change of employer referred to in subsection (8)(a), a contract of employment with the original operator, or
    - (ii) on each occasion when the employee was subject to a relevant transfer became, either by virtue of TUPE or by virtue of this section, a contract of employment with a person providing local services in the area referred to in paragraph (a);

“relevant date”, in relation to an enhanced partnership scheme, means—

- (c) the date on which the scheme was made, or
- (d) where—
  - (i) the local services being provided by the original operator were not subject to the scheme when it was made, and
  - (ii) as a result of the variation of the scheme, those services became subject to the scheme,the date on which that variation was made;

“relevant transfer” means anything that is, or is to be treated as, a relevant transfer for the purposes of TUPE.

(11) In this section—

“awarded contract” means a contract authorising a person to provide a local service that is awarded in accordance with—

- (a) regulations made by virtue of section 6E(6) of the Transport Act 1985 (provision for services to be allocated), or
  - (b) regulations made by virtue of section 138Q(4)(d);
- and an awarded contract is to be regarded as in force when the authority to provide a service has effect;

“relevant provision” means—

- (c) section 6E(2) of the Transport Act 1985 (cancellation where incompatibility with a requirement falling within section 138C(1)), or
- (d) regulations made by virtue of section 138Q(4)(c).

*Bus services: provision of information*

**139 Information about bus services**

(1) Each local transport authority must from time to time determine, having regard to their local transport policies—

- (a) what local bus information should be made available to the public ("the required information"), and
- (b) the way in which it should be made available ("the appropriate way").

(2) Before making such a determination, the authority must consult—

- (a) such organisations appearing to the authority to be representative of users of local services as they think fit, and
- (b) a traffic commissioner.

(3) Each authority must from time to time ascertain whether the required information is being made available to the public in the appropriate way.

(4) Subsection (5) applies if an authority consider that—

- (a) the required information is not being made available to the public to any extent, or
- (b) that information is not being made available to the public in the appropriate way.

(5) If this subsection applies, the authority must seek to make arrangements with the operators of the local services concerned under which those operators agree to make the information available (or to make it available in that way).

(6) In this section "local bus information", in relation to a local transport authority, means—

- (a) information about routes and timetabling of local services to, from and within the authority's area,
- (b) information about fares for journeys on such local services, and

- (c) such other information about facilities for disabled persons, travel concessions, connections with other public passenger transport services or other matters of value to the public as the authority consider appropriate in relation to their area.

#### **140 Duty of authority to make information available**

(1) If the authority are unable to make satisfactory arrangements with one or more of those operators, they—

- (a) must make available, or secure that there is made available, in the appropriate way such of the required information as is not being made available or is not being made available in that way (whether by virtue of arrangements made under section 139(5) or otherwise), and
- (b) may recover from that operator or those operators the reasonable costs incurred by them in doing so as a civil debt due to them.

(2) In determining for the purposes of subsection (1)(b) what is reasonable in relation to a particular operator, the authority must have regard to—

- (a) the amount of information which has to be made available, and
- (b) the way in which that information has to be made available,

in respect of the local services provided by that operator.

(3) If the authority require an operator to provide information to them or to another person in order to perform their duty under subsection (1)(a), the operator must provide the information at such times and in such manner as is specified by the authority.

(4) The authority must give notice of any requirement imposed under subsection (3) to [a traffic commissioner.

#### **141 Bus information: supplementary**

(1) In considering how they should carry out their functions under sections 139 and 140, a local transport authority must have regard to a combination of economy, efficiency and effectiveness.

(2) In carrying out those functions, local transport authorities—

- (a) must not act in such a way as to discriminate (whether directly or indirectly) against any operator, or class of operator, of local services, and
- (b) must co-operate with one another.

(3) A local transport authority must have regard to the desirability, in appropriate cases, of carrying out those functions jointly with another authority (whether as respects the whole or any part of their combined area).

#### **141A Power to require provision of information about English bus services**

(1) The Secretary of State may by regulations require—

- (a) applicants for the registration of relevant local services, or for the variation or cancellation of any such registration, to provide prescribed information—
  - (i) in relation to the services, or
  - (ii) in connection with the application;
- (b) operators of registered relevant local services to provide prescribed information in relation to the services;
- (c) local transport authorities to provide prescribed information in relation to relevant local services—
  - (i) provided under local service contracts entered into by them (see section 123A(5));
  - (ii) provided by them under section 123O(2) (interim services);
  - (iii) provided under service permits granted by them (see section 123P);

- (d) traffic commissioners to provide prescribed information that is held by them in relation to relevant local services.
- (2) The information that may be prescribed includes—
  - (a) information about routes, timetables, fares and tickets,
  - (b) information about changes or proposed changes to routes, timetables, fares and tickets, and
  - (c) information about the operation of the services.
- (3) The information within subsection (2)(c) includes—
  - (a) live information, that is to say information provided immediately it becomes available about the time at which vehicles operating the services stop, or are expected to stop, at stopping places, and
  - (b) information about the operation of the services in the past.
- (4) The regulations may make provision about—
  - (a) the person to whom the information is to be provided,
  - (b) the time when it is to be provided, and
  - (c) the manner and form in which it is to be provided (including, in particular, provision requiring it to be provided electronically).
- (5) The regulations may provide that a reference in the regulations to a standard according to which the information is to be provided is to be construed as a reference to that standard as it has effect from time to time.
- (6) The regulations may make provision as to the use and disclosure of the information, including—
  - (a) provision for the information to be made available free of charge and without restrictions on its use and disclosure, and
  - (b) provision for information provided in connection with an application for registration to be provided to a traffic commissioner.
- (7) The regulations may make different provision for different areas.
- (8) In this section—
  - (a) “relevant local service” means a local service which has one or more stopping places in the relevant area,
  - (b) references to registration, in relation to a relevant local service, are to registration under section 6 of the Transport Act 1985,
  - (c) “prescribed” means prescribed by regulations under this section, and
  - (d) “relevant area” means England outside Greater London.
- (9) Where a local service is or is to be provided both inside and outside the relevant area, any part of the service which is or is to be provided outside the relevant area is to be treated as a separate service for the purposes of subsection (8)(a) if there is any stopping place for that part of the service outside the relevant area.

*Bus services: miscellaneous*

**142 Traffic regulation conditions to reduce or limit pollution**

In section 7 of the Transport Act 1985 (traffic regulation conditions to be met in provision of local services subject to registration), in subsection (4) (reasons for which conditions may be determined), insert at the end

”; or



- (c) reduce or limit noise or air pollution."

#### **143 Power to obtain information about local services**

(1) A local transport authority may, in connection with the exercise of any of their functions relating to public transport, require an operator of local services to provide them with any information relating to the matters specified in subsection (2) which is in his possession or control.

(2) The matters referred to in subsection (1) are

- (a) the total number of journeys undertaken by passengers on the local services operated by the operator in the authority's area or any part of its area,
- (b) the structure of fares for those journeys, and
- (c) the total distance covered by vehicles used by him in operating those local services.

(3) The operator may be required to provide the information in any form in which, having regard to the manner in which the information is kept, it is reasonable to expect him to provide it.

(4) No information which—

- (a) has been provided under this section, or provided together with information so provided, and
- (b) relates to the affairs of an individual or to a particular business,

shall be disclosed during the lifetime of the individual or while the business continues to be carried on.

(5) But subsection (4) does not apply to a disclosure made—

- (a) with the consent of the individual or the person for the time being carrying on the business,
- (b) in connection with the investigation of crime or for the purposes of criminal proceedings,
- (c) for the purposes of civil proceedings brought by virtue of this Act or the Transport Act 1985, or
- (d) in order to comply with the order of a court or tribunal.

(6) A person who discloses information in contravention of subsection (4) is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

#### **143A Power to obtain information: franchising schemes**

(1) A franchising authority may, in connection with their functions under this Part in relation to franchising schemes, require an operator of local services to provide them with such relevant information about local services operated by the operator in the authority's area, or any part of it, as the operator possesses or controls.

(2) If two or more franchising authorities are exercising functions under this Part in relation to the same franchising scheme or proposed franchising scheme, each of them may, in connection with their functions under this Part in relation to franchising schemes, require an operator of local services to provide them with such relevant information about local services operated by the operator in the authorities' areas, or any part of those areas, as the operator possesses or controls.

(3) For the purposes of this section, information about the local services operated by an operator in an area is relevant information if it is—

- (a) information about the total number of journeys undertaken by passengers on the local services operated by the operator in the area;
- (b) information about the structure of fares for journeys on those local services;
- (c) information about revenue received from those local services, including information about revenue attributable to particular types of fares or derived from journeys undertaken on particular parts of those local services;
- (d) information about the total distance covered by vehicles used by the operator in operating those local services;



- (e) information about persons employed by the operator in the provision of those local services;
- (f) information about journeys that the operator has forecast will be undertaken by passengers on those services and revenue that the operator has forecast will be received from those services;
- (g) information of such description as is specified in regulations made by the Secretary of State.

(4) The powers in subsections (1) and (2) may not be used to require an operator to provide information relating to periods that fall more than five years before the date of the demand.

(5) If a franchising authority or authorities require the consent of the Secretary of State under section 123C before preparing an assessment under section 123B, that consent must be given before the authority or any of them may exercise the powers in subsections (1) and (2).

(6) The operator may be required to provide the information in any form in which, having regard to the manner in which the information is kept, it is reasonable to expect the operator to provide it.

(7) If it appears to a franchising authority that an operator of a local service has failed to take all reasonable steps to provide information required under this section, the authority must inform a traffic commissioner.

(8) The requirements in sections 123E and 123G about publishing documents do not require a franchising authority to publish information obtained by the authority, or another franchising authority exercising functions under this Part in relation to the same franchising scheme or proposed franchising scheme, under this section if it is information that the authority could refuse to disclose in response to a request under—

- (a) the Freedom of Information Act 2000, or
- (b) the Environmental Information Regulations 2004 (S.I. 2004/ 3391) or any regulations replacing those regulations.

#### **143B Power to obtain information about local services: enhanced partnership schemes**

(1) If a local transport authority in England, or two or more such authorities acting jointly, are preparing an enhanced partnership plan or scheme, the authority or any of the authorities may, in connection with preparing the plan or scheme, require an operator of a local service in their area or combined area to supply relevant information.

(2) If a local transport authority in England, or two or more such authorities acting jointly, have made an enhanced partnership plan or scheme, the authority or any of the authorities may, in connection with the exercise of any relevant function, require an operator of a local service in their area or combined area to supply relevant information.

(3) The operator may be required to provide the information in any form in which, having regard to the manner in which the information is kept, it is reasonable to expect him to provide it.

(4) If it appears to a local transport authority that an operator of a local service has failed to take all reasonable steps to comply with a request under this section, the authority must inform a traffic commissioner.

(5) If two or more local transport authorities are acting jointly in preparing an enhanced partnership plan or scheme, information supplied to one of those authorities under this section may be supplied to another of those authorities.

(6) If two or more local transport authorities have jointly made an enhanced partnership plan or scheme and the plan or scheme is in operation, information supplied to one of those authorities under this section may be supplied to another of those authorities.

(7) A local transport authority must not disclose information obtained under this section if it is information which the authority may refuse to disclose in response to a request under the Freedom of Information Act 2000 in reliance on a claim that the information is exempt information by virtue of section 40, 41, 42 or 43 of the Freedom of Information Act 2000.

(8) Subsection (7) does not prevent the disclosure of information—

- (a) under subsection (5) or (6),
  - (b) in the case of information relating to the affairs of an individual who is alive or a particular business that is being carried on, with the consent of the individual or the person for the time being carrying on the business,
  - (c) in connection with the investigation of crime or for the purposes of criminal proceedings,
  - (d) for the purposes of civil proceedings brought by virtue of this Act or the Transport Act 1985,
  - (e) in order to comply with the order of a court of tribunal, or
  - (f) in order to comply with a requirement imposed by law.
- (9) The prohibition in subsection (7) is to be disregarded for the purposes of section 44 of the Freedom of Information Act 2000.
- (10) In this section—
- “relevant function” means—
- (a) reviewing an enhanced partnership plan or the operation of an enhanced partnership scheme, or
  - (b) determining whether and how to vary an enhanced partnership plan or scheme;
- “relevant information” means information relating to a local service or passengers on a local service which is of a description specified in regulations made by the Secretary of State.

**[sections 144 to 152 no changes]**

### **153 Competition test: functions and agreements relating to buses**

- (1) Schedule 10 contains provision applying competition tests in relation to—
- (a) the exercise of functions relating to advanced quality partnership schemes, quality partnership schemes, ticketing schemes, enhanced partnership schemes and subsidised local services,
  - (b) voluntary partnership agreements and certain other agreements, decisions and practices relating to bus services.
- (2) A voluntary partnership agreement is any voluntary agreement under which—
- (a) a local transport authority, or two or more local transport authorities, undertake to provide particular facilities, or to do anything else for the purpose of bringing benefits to persons using local services, within the whole or part of their area, or combined area, and
  - (b) one or more operators of local services undertake to provide services of a particular standard.
- (3) In subsection (2)—
- "facilities" means—
- (a) facilities provided at specific locations along routes served, or proposed to be served, by local services within the area to which the agreement relates, or
  - (b) facilities which are ancillary to such facilities;
- "standard", in the case of any services, includes—
- (a) any requirements which the vehicles being used to provide the services must meet,
  - (b) any requirements as to frequency or timing of the services,
  - (c) any requirements as to the maximum fares that may be charged for particular journeys, or for journeys of particular descriptions, on services to which the agreement applies;
- "voluntary agreement" means an agreement made otherwise than under sections 113C to 113O (advanced quality partnership schemes), or under sections 114 to 123 (quality partnership schemes).

## 154 Grants to bus service operators

(1) The Secretary of State with the approval of the Treasury (as respects England) or the National Assembly for Wales (as respects Wales) may make grants to operators of eligible bus services towards their costs in operating those services.

(2) The Secretary of State with the approval of the Treasury (as respects England) or the National Assembly for Wales (as respects Wales) may make provision by regulations as to the method of calculation of grants.

(3) Subject to the provisions of any such regulations, grants under this section shall be of such amount and subject to such conditions (including conditions requiring their repayment in specified circumstances) as may be determined by—

- (a) the Secretary of State with the approval of the Treasury (as respects England), or
- (b) the National Assembly for Wales (as respects Wales).

(4) A determination under subsection (3) may be made either generally or in relation to particular cases or classes of case.

(5) In this section “eligible bus services” means bus services of a class (or using vehicles of a class) prescribed by regulations made by the Secretary of State (as respects England) or the National Assembly for Wales (as respects Wales).

(6) Section 92 of the Finance Act 1965 (grants towards duty charged on bus fuel) and section 111 of the Transport Act 1985 (unregistered and unreliable local services: reduction of fuel duty grant) cease to have effect.

## 155 Sanctions

(1) Where a traffic commissioner is satisfied that the operator of a local service has, without reasonable excuse—

- (a) failed to operate a local service registered under section 6 of the Transport Act 1985,
- (aa) failed to comply with the requirements of regulations made under section 6(9)(i), (j) or (k) of that Act,
- (ab) failed to comply with a requirement to provide information imposed by virtue of section 6C of that Act.**
- (b) operated a local service in contravention of that section or section **113J(4) or (5)**, 118(4) ~~or~~, 129(1)(b) **or 138J(9)** of this Act, or
- (ba) failed to comply with a requirement imposed by virtue of section **123X(7)(c) or 134B(7)(c) or 138S(7)(c)** of this Act, or
- (c) failed to comply with section **134F or 138 or 140(3)** of this Act **or with regulations under section 141A of this Act,**

he may make one or more orders under subsection (1A).

**(1ZA) Where a traffic commissioner for any traffic area is satisfied that—**

- (d) a person has operated a local service in contravention of section 123J(3) of this Act, and**
- (e) in operating the local service, the person has failed to take all reasonable precautions and to exercise all due diligence to avoid contravening section 123J(3) of this Act,**

**the traffic commissioner may make one or more orders under subsection (1A)(a) or (d).**

**(1ZB) Where a traffic commissioner for any traffic area is satisfied that—**

- (f) a person has operated a local service in contravention of section 138J(9) of this Act, and**
- (g) in operating the local service, the person has failed to take all reasonable precautions and to exercise all due diligence to avoid contravening section 138J(9) of this Act,**

**the traffic commissioner may make one or more orders under subsection (1A)(a) or (d).**

(1ZC) Where a traffic commissioner for any traffic area is satisfied that the operator of a local service has failed to take all reasonable steps to comply with section 143A of this Act, the traffic commissioner may make one or more orders under subsection (1A)(a) or (d).

(1ZD) Where a traffic commissioner for any traffic area is satisfied that the operator of a local service has failed to take all reasonable steps to comply with section 143B(1) or (2) of this Act the traffic commissioner may make one or more orders under subsection (1A)(a) or (d).

(1A) The orders are—

- (h) an order that the operator pay a penalty of such amount as is determined in accordance with subsection (3);
- (i) an order that the operator expend such sum of money as is determined in accordance with subsection (3) in the manner mentioned in subsection (1B);
- (j) an order that the operator provide compensation (see subsection (1C)) to passengers of such description as is specified in the order;
- (k) an order of such other description as the Secretary of State (as respects England) or the Welsh Ministers (as respects Wales) may by order prescribe for the purposes of this paragraph.

(1B) An order under subsection (1A)(b) may require the operator to expend money on or towards—

- (l) the provision of specified local services or specified facilities to be used in connection with such services;
- (m) specified improvements in such services or facilities.

In this subsection "specified" means specified in the order.

(1C) Compensation under subsection (1A)(c)—

- (a) may take the form of payments of money, or
- (b) may take such other form (including the provision of free travel or travel at a reduced price) as is specified in the order;

and shall be of such amount, or equivalent in value to such amount, as is determined in accordance with subsection (3).

(2) . . .

(3) The amount mentioned in subsections (1A)(a) and (b) and (1C) is such amount as the traffic commissioner thinks fit in all the circumstances of the case, but must not exceed—

- (a) £550, or
- (b) such other amount as the Secretary of State (as respects England) or the National Assembly for Wales (as respects Wales) may by order specify,

multiplied by the total number of vehicles which the operator is licensed to use under all the PSV operator's licences held by him.

(4) . . .

(5) After making an order under subsection (1A), the traffic commissioner must at once give notice in writing to—

- (a) the Secretary of State (as respects England) or the National Assembly for Wales (as respects Wales), and
- (b) the operator.

(6) The operator may appeal to the Upper Tribunal against the making of the order.

(6A) If the operator fails to comply with an order under subsection (1A)(b), (c) or (d), the traffic commissioner may order the operator to pay a penalty of such amount as is determined in accordance with subsection (6B).

(6B) That amount is such amount as the traffic commissioner thinks fit in all the circumstances of the case, but must not exceed 110% of the maximum amount which may be ordered in accordance with subsection (3).

(7) An amount ordered to be paid under subsection (1A)(a) or (6A) is—

- (a) payable to the Secretary of State (as respects England) or the Welsh Ministers (as respects Wales), and
- (b) recoverable as a civil debt.

(8) Other provisions that may need to be considered include the following provisions of the Transport Act 1985—

- (a) sections 26 and 27 (attachment of conditions to PSV operator's licence),
- (b) sections 27A and 27B (additional powers of traffic commissioner where services are not operated as registered etc).

**156 . . .**

### **157 Grants to Integrated Transport Authorities and combined authorities**

(1) The Secretary of State may, with the approval of the Treasury, make grants to [the Integrated Transport Authority for an integrated transport area] in England for the purpose of enabling the Authority, or the Passenger Transport Executive for the area, to carry out any of their functions.

(1A) The Secretary of State may, with the approval of the Treasury, make grants to a combined authority for the purpose of enabling the authority to carry out any of their functions.]

(2) Grants under this section shall be of such amount and subject to such conditions (including conditions requiring their repayment in specified circumstances) as the Secretary of State may, with the approval of the Treasury, determine.

(3) A determination under subsection (2) may be made either generally or in relation to particular cases or classes of case.

**158 . . .**

### **159 Abolition of financial plans of Passenger Transport Executives**

Sections 3 to 5 of the Transport Act 1983 (duty of Passenger Transport Executives to prepare three-year financial plans and determination of revenue grants) shall cease to have effect.

## *Supplementary*

### **160 Part II: regulations and orders**

(1) Any power to make regulations or orders under this Part—

- (a) is exercisable by statutory instrument,
- (b) includes power to make different provision for different cases, and
- (c) may be exercised so as to make incidental, consequential, supplementary or transitional provision or savings.

(2) A statutory instrument containing regulations or an order made by a Minister of the Crown under this Part (whether alone or jointly with the National Assembly for Wales) other than **regulations under section 123A(4)(b) to (f), 138F(10), 138G(9) or 141A(1)** or an order under section 155(1A)(d), shall be subject to annulment in pursuance of a resolution of either House of Parliament.

**(2A) A statutory instrument containing regulations under section 123A, 138F(10), 138G(9) or 141A(1) shall not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.**

- (3) A statutory instrument containing an order under section 155(1A)(d) shall not be made—
- (a) as respects England, unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament;
  - (b) as respects Wales, unless a draft of the instrument has been laid before, and approved by a resolution of, the National Assembly for Wales.

## 161 Part II: minor and consequential amendments

Schedule 11 makes minor and consequential amendments relating to this Part.

## 162 Interpretation of Part II

(1) In this Part—

“advanced ticketing scheme” is to be construed in accordance with section 134C(3),

"appropriate national authority", in relation to a quality partnership scheme, a quality contracts scheme or a ticketing scheme, means—

- (a) ~~the Secretary of State, as respects a scheme relating to an area in England,~~
- (b) the National Assembly for Wales, as respects a scheme relating to an area in Wales, or
- (c) the Secretary of State and the National Assembly for Wales acting jointly, as respects a scheme relating to an area in England and Wales,

“advanced quality partnership scheme” is to be construed in accordance with section 113C(2)

"bus services" means services using public service vehicles,

"community bus permit" means a permit under section 22 of the Transport Act 1985,

"connecting rail or tram “service”—

(d) in relation to an advanced ticketing scheme, has the meaning given by section 134C(3), and

(e) in relation to a ticketing scheme, has the meaning given in section 135(5),

"disabled person" has the meaning given in section 146,

“effective time” in relation to a local service contract, has the meaning given to it by section 123K(5);

"elderly person" has the meaning given in section 146,

"eligible service" has the meaning given in section 146,

“enhanced partnership plan” and “enhanced partnership scheme” have the meaning given by section 138A,

"exempt continuation proposal" is to be read in accordance with section 131B,

“franchising authority” has the meaning given by section 123A(4),

“franchising scheme” is to be construed in accordance with section 123A(3)

"half-price travel concession" has the meaning given in section 146,

“interim service” has the meaning given by section 123O,

“local service contract” has the meaning given by section 123A(5),

"local transport authority" has the meaning given in section 108(4),

"local transport policies" has the meaning given in section 108(5),

"London authority" has the meaning given in section 146,

"London transport authority" means the Greater London Authority, a London borough council or the Common Council of the City of London,

“mayoral combined authority” has the meaning given by section 107A of the Local Democracy, Economic Development and Construction Act 2009,

“QCS board” is to be read in accordance with section 126A(1),

"quality contract" has the meaning given in section 124(4),  
"quality contracts scheme" is to be construed in accordance with section 124(3),  
"quality partnership scheme" is to be construed in accordance with section 114(2),  
"railway" and "tramway" have the meanings given in section 67(1) of the Transport and Works Act 1992,  
"relevant time" has the meaning given in section 146,  
"scheme sub-area" has the meaning given by section 123H  
"service permit" has the meaning given by section 123P,  
"ticketing scheme" is to be construed in accordance with section 135(3),  
"traffic regulation order" means an order under the Road Traffic Regulation Act 1984 or any other enactment (other than this Act) regulating the use of roads or other places by public service vehicles, and  
"travel concession authority" has the meaning given in section 146.

(2) In this Part the expressions listed below have the same meaning as in the Public Passenger Vehicles Act 1981—

"fares",  
"modification",  
"public service vehicle",  
"PSV operator's licence",  
"road", and  
"traffic commissioner".

(3) In this Part the expressions listed below have the same meaning as in the Transport Act 1985—

"local service",  
"public passenger transport services",  
"stopping place", and  
"traffic area".

(4) Where a reference to an authority in any of the following provisions is to an Integrated Transport Authority, it is to be construed as a reference to the Passenger Transport Executive for the integrated transport area concerned; and where a reference to authorities in any of those provisions is to one or more Integrated Transport Authorities, it is to be construed as a reference to the Passenger Transport Executive or Executives for the integrated transport area or areas concerned—

section 113C(3)(a), (4)(a) and (5)(a),  
section 113H(2)(a), (2)(b), (5)(a) and, in the second place, (7),  
section 113J(1) and (2),  
section 114(2)(a),  
section 116(2)(a), (4)(a), (4A)(a) and, in the second place, (4C),  
section 118(1) and (2),  
~~section 124(4)(a), (5) and (7),~~  
~~section 127(3A),~~  
~~section 127A(7),~~  
section 129(4),  
~~section 130,~~  
~~section 131,~~  
~~section 132C,~~

~~section 132D,~~

section 139(5), and

section 140.

(4A) Where a reference to an authority in any of the following provisions is to an Integrated Transport Authority, it is to be construed as including a reference to the Passenger Transport Executive for the integrated transport area concerned—

section 153(2)(a),

in Schedule 10, paragraph 17(5)(b) and (8).

(5) References in this Part to Integrated Transport Authorities and Passenger Transport Executives] and to integrated transport areas are references respectively to the Integrated Transport Authorities and Passenger Transport Executives, and to integrated transport areas, for the purposes of Part II of the Transport Act 1968.

(5A) In this Part "combined authority" means a combined authority established under section 103 of the Local Democracy, Economic Development and Construction Act 2009.]

(6) . . .

(7) References in this Part to the operator of a passenger transport service of any description are to be construed in accordance with section 137(7) of the Transport Act 1985.

## SCHEDULE 10

### COMPETITION TEST: FUNCTIONS AND AGREEMENTS RELATING TO BUSES

Section 153

#### PART 1

##### Test for Exercise of Bus Functions by Local Authorities

Functions to which this Part of this Schedule applies

**1**

(1) The functions to which [this Part of] this Schedule applies are those of—

(za) making and varying advanced quality partnership schemes,

(a) making and varying quality partnership schemes English or Welsh,

**(aa) making and varying advanced ticketing schemes,**

(b) making and varying ticketing schemes,

**(ba) making and varying enhanced partnership schemes and**

(c) inviting and accepting tenders under section 89 or 91 of the Transport Act 1985 (subsidised services).

(2) For the purposes of [this Part of] this Schedule an authority proposes (or authorities propose) to exercise a function to which [this Part of] this Schedule applies--



- (za) in the case of the function of making or varying an advanced quality partnership scheme, once notice of a proposal to make or vary it has been given under section 113G(1),
- (a) in the case of the function of making or varying a an English or Welsh quality partnership scheme, once notice of a proposal to make or vary it has been given under section 115(1),
- (aa) in the case of the function of making or varying an advanced ticketing scheme, once notice of a proposal to make or vary it has been given under section 134D(1),
- (b) the case of the function of making or varying a ticketing scheme, once notice of a proposal to make or vary it has been given under section 134D(1) or 136(1),
- (ba) in the case of the function of making or varying an enhanced partnership scheme, once notice of a proposal to make or vary it has been given under section 138F(1) or 138L(1) and
- (c) in the case of the function of inviting or accepting tenders under section 89 or 91 of the Transport Act 1985, once it is proposed to invite tenders under section 89(2) or 91(3) of that Act or to accept or not to accept a tender under section 89 of that Act.

#### Competition test

### 2

(1) For the purposes of [this Part of] this Schedule the exercise or proposed exercise of a function to which [this Part of] this Schedule applies meets the competition test unless it—

- (a) has or is likely to have a significantly adverse effect on competition, and
- (b) is not justified by sub-paragraph (2).

(2) The exercise or proposed exercise of a function is justified if—

- (a) it is with a view to achieving one or more of the purposes specified in sub-paragraph (3), and
- (b) its effect on competition is or is likely to be proportionate to the achievement of that purpose or any of those purposes.

(3) The purposes referred to in sub-paragraph (2) are—

- (a) securing improvements in the quality of vehicles or facilities used for or in connection with the provision of local services,
- (b) securing other improvements in local services of . . . benefit to users of local services, and
- (c) reducing or limiting traffic congestion, noise or air pollution.

### 3

...

### 4

...

#### Investigations by [CMA]

### 5

If at any time [the [Competition and Markets Authority] (in this Schedule referred to as "the [CMA"])] considers that the exercise or proposed exercise of a function to which [this Part of] this Schedule applies may not meet the competition test, [it] may conduct an investigation.

## 6

- (1) For the purposes of an investigation under paragraph 5 the CMA may require any person—
- (a) to produce to it or to a person appointed by it, at a specified time and place, any specified document, or
  - (b) to provide it or such a person, at such a time and place, any specified information,

which the CMA considers relates to any matter relevant to the investigation.

(2) The power conferred by sub-paragraph (1) is to be exercised by a notice in writing indicating the subject matter and purpose of the investigation; and in this paragraph "specified" means—

- (a) specified, or described, in the notice, or
- (b) falling within a category which is specified, or described, in the notice.

(3) Information required to be provided under sub-paragraph (1) shall be provided in the specified manner and form.

(4) The power conferred by sub-paragraph (1) to require a person to produce a document includes power—

- (a) to require him to provide an explanation of the document, or
- (b) if the document is not produced, to require him to state, to the best of his knowledge and belief, where it is.

(5) In this paragraph "information" includes estimates and forecasts.

## 7

(1) If a person refuses or fails to comply with a notice under paragraph 6, the [CMA] may certify that fact in writing to the High Court which may enquire into the case.

(2) If after hearing—

- (a) witness who may be produced against or on behalf of the person, and
- (b) any statement which may be offered in defence,

the High Court is satisfied that the person did not have a reasonable excuse for refusing or failing to comply with the notice, the High Court may punish him as if he had been guilty of contempt of court.

## 8

(1) A person shall not be required under paragraph 6 to produce or disclose a privileged communication.

(2) In sub-paragraph (1) "privileged communication" means a communication—

- (a) between a professional legal adviser and his client, or
- (b) made in connection with, or in contemplation of, legal proceedings and for the purposes of those proceedings,

which in proceedings in the High Court would be protected from disclosure on grounds of legal professional privilege.

## 9

Before the CMA, as the result of an investigation under paragraph 5, makes a decision that the exercise or proposed exercise of a function does not meet the competition test, the CMA must—

- (a) give written notice to the person or persons likely to be affected by the proposed decision, and
- (b) give that person or those persons an opportunity to make representations.

## Decisions

### 10

When the CMA makes a decision—

- (a) . . .
- (b) after an investigation under paragraph 5,

the CMA must publish its decision, together with its reasons for making it.

### 11

. . .

## Enforcement of decisions

### 12

(1) If the CMA has made a decision that the exercise or proposed exercise of a function to which this Part of this Schedule applies does not meet the competition test, the CMA may give to the authority or authorities by which it was or was to be exercised such directions as the CMA considers appropriate.

(2) A direction under sub-paragraph (1) may (in particular)—

- (a) in the case of a proposal to exercise a function, include provision prohibiting the exercise of the function in the manner proposed,
- (b) in the case of the exercise of the function of making or varying **an advanced quality partnership scheme, an advanced ticketing scheme, a quality partnership scheme or a ticketing scheme** ~~or a ticketing scheme~~ **a ticketing scheme or an enhanced partnership scheme**, include provision requiring the variation or revocation of the scheme,
- (c) in the case of the exercise of the function of inviting tenders under section 89(2) or 91(3) of the Transport Act 1985, include provision requiring the variation or withdrawal of the invitation, and
- (d) in the case of the exercise of the function of accepting or not accepting a tender under section 89 or 91 of that Act, include provision requiring the variation or termination of any agreement entered into by accepting the tender or requiring the acceptance of any tender.

(3) A direction under sub-paragraph (1) must be given in writing.

(4) If an authority fails, without reasonable excuse, to comply with a direction under sub-paragraph (1), the CMA may apply to the High Court for an order requiring the authority to comply with the direction within a time specified in the order.

(5) An order under sub-paragraph (4) may provide for all of the costs of, or incidental to, the application for the order to be borne by the authority.

## Information

### 13

(1) No information which—

- (a) has been obtained by the CMA in connection with its functions under this Part of this Schedule, and
- (b) relates to the affairs of any individual or to any particular business,

is to be disclosed during the lifetime of that individual or while that business continues to be carried on, unless the condition mentioned in sub-paragraph (2) is satisfied.

- (2) The condition is that consent to the disclosure has been obtained from—
  - (a) the person from whom the information was obtained, and
  - (b) if different, the individual to whose affairs the information relates or the person for the time being carrying on the business to which the information relates.
- (3) Sub-paragraph (1) does not apply to a disclosure of information—
  - (a) made for the purpose of facilitating the performance of any function of the CMA, a traffic commissioner or the Office of Rail Regulation,
  - (b) made for the purpose of facilitating the performance of any function of the European Commission in respect of EU law about competition,
  - (c) made for the purpose of criminal proceedings in any part of the United Kingdom or in connection with the investigation of a criminal offence triable in any part of the United Kingdom, or
  - (d) made in compliance with the order of a court or tribunal.
- (4) If information is disclosed to the public in circumstances in which the disclosure does not contravene sub-paragraph (1), that sub-paragraph does not prevent its further disclosure by any person.
- (5) A person who contravenes this paragraph is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

## 14

- (1) If information is provided by a person to the CMA in connection with its functions under this Part of this Schedule, the person is guilty of an offence if—
  - (a) the information is false or misleading in a material particular, and
  - (b) the person knows that it is or is reckless as to whether it is.
- (2) If a person—
  - (a) provides any information to another person, knowing the information to be false or misleading in a material particular, or
  - (b) recklessly provides to another person any information which is false or misleading in a material particular,

knowing that the information is to be used for the purpose of providing information to the CMA in connection with its functions under this Part of this Schedule, the person is guilty of an offence.

- (3) A person guilty of an offence under this paragraph is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

### Advice and information

## 14A

- (1) As soon as is reasonably practicable after the passing of the Local Transport Act 2008, the OFT must prepare and publish advice and information about—
  - (a) the application of the competition test,
  - (b) the enforcement of decisions regarding that test.
- (2) The CMA may at any time publish revised, or new, advice or information.
- (3) Advice and information published under this paragraph must be prepared with a view to—
  - (a) explaining provisions of this Part of this Schedule to persons who are likely to be affected by them, and
  - (b) indicating how the CMA expects such provisions to operate.

(4) Advice (or information) published by virtue of sub-paragraph (3)(b) may include advice (or information) about the factors which the CMA may take into account in considering whether, and if so how, to exercise a power conferred on it by this Part of this Schedule.

(5) Any advice or information published by the CMA under this paragraph is to be published in such form and in such manner as it considers appropriate.

(6) If the CMA is preparing any advice or information under this paragraph it must consult such persons as it considers appropriate.

#### Defamation

### 15

For the purposes of the law relating to defamation, absolute privilege attaches to any decision made or notice given[, and to any advice or information given,] by the [CMA] in the exercise of any of [its] functions under [this Part of] this Schedule.

#### Fees

### 16

(1) The CMA may charge fees in connection with the exercise by the CMA of any of its functions under this Part of this Schedule.

(2) Different fees may be charged in connection with different functions and in different circumstances.

(3) . . .

## PART 2

### Test for Certain Agreements, Decisions and Practices

#### Interpretation

### 17

(1) This paragraph applies for the purposes of the interpretation of this Part of this Schedule.

(2) A voluntary multilateral agreement (a "VMA") is a voluntary partnership agreement (within the meaning given by section 153) to which two or more operators of local services are parties.

(3) A voluntary bilateral agreement (a "VBA") is a voluntary partnership agreement (within the meaning given by that section) to which only one operator of local services is a party.

(4) In this Part of this Schedule—

(a) a "qualifying agreement" is an agreement between bus undertakings only;

(b) a "qualifying decision" is so much of any decision by an association of undertakings as relates to the operation of local services;

(c) a "qualifying practice" is a concerted practice by bus undertakings only.

(5) For the purposes of sub-paragraph (4)—

(a) a bus undertaking is an undertaking which is the operator of a local service;

(b) the involvement of a local authority which is not a bus undertaking is to be disregarded;

(c) **an advanced quality partnership scheme, an enhanced partnership scheme**, a quality partnership scheme or voluntary partnership agreement is not to be regarded as a qualifying agreement, qualifying decision or qualifying practice.

(6) In sub-paragraph (5)(b) "local authority" means—

- (a) a local transport authority;
- (b) a district council in England.

(7) A provision of this Part of this Schedule which is expressed to apply to, or in relation to, a qualifying agreement is to be read as applying equally to, or in relation to, a qualifying decision or a qualifying practice (but with any necessary modifications).

(8) A reference to the area of an authority—

- (a) in relation to a VMA or VBA, is a reference to the area of a local transport authority who are a party to the agreement;
- (b) in relation to a qualifying agreement, is a reference to the area of a local transport authority in whose area the agreement is, or is to be, implemented.

(9) The "bus improvement objectives" are—

- (a) securing improvements in the quality of vehicles or facilities used for or in connection with the provision of local services,
- (b) securing other improvements in local services of benefit to users of local services, and
- (c) reducing or limiting traffic congestion, noise or air pollution.

Agreements, decisions and practices to which this Part of this Schedule applies

## 18

(1) This Part of this Schedule applies to—

- (a) VMAs or VBAs falling within sub-paragraph (2), and
- (b) qualifying agreements falling within sub-paragraph (3).

This paragraph is subject to paragraph 19.

(2) A VMA or VBA falls within this sub-paragraph if it has as its object or effect the prevention, restriction or distortion of competition in the area of the authority, or the combined area of the authorities.

(3) A qualifying agreement falls within this sub-paragraph if—

- (a) it has as its object or effect the prevention, restriction or distortion of competition in the area of the authority, or the combined area of the authorities, but
- (b) the authority, or any of the authorities, has certified that they have considered all the terms and effects (or likely effects) of the agreement and that in their opinion the requirements mentioned in sub-paragraph (4) are satisfied.

(4) The requirements are that the agreement—

- (a) is in the interests of persons using local services within the area of the authority, or the combined area of the authorities, and
- (b) does not impose on the undertakings concerned restrictions that are not indispensable to the attainment of the bus improvement objectives.

(5) For the purposes of sub-paragraph (2)—

- (a) the object or effect of a VMA may be considered either on its own or together with one or more other VMAs, VBAs or qualifying agreements;
- (b) the object or effect of a VBA is to be considered together with one or more VMAs, other VBAs or qualifying agreements.

(6) For the purposes of sub-paragraph (3) the object or effect of a qualifying agreement may be considered either on its own or together with one or more VMAs, VBAs or other qualifying agreements.

## 19

(1) This Part of this Schedule does not apply to a VMA, VBA or qualifying agreement if it (or any of its provisions) constitutes a price-fixing agreement within the meaning given by section 39(9) of the Competition Act 1998.

(2) Where the standard of services specified in a VMA or VBA includes any requirement as to maximum fares (see section 153(3)), any provision of that agreement relating to the setting, review or revision of the maximum fare is not to be regarded as constituting a price-fixing agreement for the purposes of sub-paragraph (1).

### The prohibition

## 20

(1) Any VMA, VBA or qualifying agreement to which this Part of this Schedule applies is prohibited unless it is exempt in accordance with the provisions of this Part of this Schedule.

(2) The prohibition in sub-paragraph (1) applies in place of the Chapter 1 prohibition.

(3) The Chapter 1 prohibition is the prohibition imposed by section 2(1) of the Competition Act 1998.

### Agreements and decisions void

## 21

Any agreement or decision which is prohibited by paragraph 20 is void.

### Exempt agreements

## 22

(1) A VMA, VBA or qualifying agreement to which this Part of this Schedule applies is exempt if—

- (a) it contributes to the attainment of one or more of the bus improvement objectives,
- (b) it does not impose on the undertakings concerned restrictions which are not indispensable to the attainment of those objectives, and
- (c) it does not afford the undertakings concerned the possibility of eliminating competition in respect of a substantial part of the services in question.

(2) In any proceedings in which it is alleged that the prohibition in paragraph 20 is being or has been infringed by a VMA, VBA or qualifying agreement any undertaking or association of undertakings claiming the benefit of sub-paragraph (1) shall bear the burden of proving that the conditions of that sub-paragraph are satisfied.

### Application of provisions of Competition Act 1998

## 23

(1) The provisions of Part 1 of the Competition Act 1998 ("the 1998 Act") specified in sub-paragraph (2) apply in relation to the prohibition in paragraph 20 (and a VMA, VBA or qualifying agreement to which this Part of this Schedule applies) as those provisions apply in relation to the Chapter 1 prohibition (and an agreement to which the provisions of that Chapter apply).

- (2) The provisions are—
- (a) in Chapter 1, sections 3, 6, 8, 10 and 11 (excluded agreements and exemptions);
  - (b) Chapter 3 (investigations and enforcement), except sections 36 to 39 (penalties);
  - (c) in Chapter 4, sections 46 to 49 (appeals);
  - (d) Chapter 5 (miscellaneous), except section 54 (regulators).
- (3) The application, by virtue of sub-paragraph (2)(d), of Chapter 5 includes section 52(1) of the 1998 Act; but this is subject to the following modifications—
- (a) the reference to the passing of the 1998 Act is to be read as a reference to the passing of the Local Transport Act 2008;
  - (b) the reference to the Director is to be read as a reference to the OFT.
- (4) The application, in accordance with sub-paragraph (1), of the provisions mentioned in sub-paragraph (2) is to be subject to such further modifications as the Secretary of State may by order provide.