



Department
for Transport

From the Parliamentary
Under Secretary of State
The Lord (Tariq) Ahmad of Wimbledon

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Dear Colleagues

16 JUN 2016

Bus Services Bill- Notice of Government Amendments

I would like to thank those Noble Lords who took part in an interesting debate on the Bus Services Bill at its second reading on 8th June. Committee will begin on Wednesday 29th June; in advance of that I have brought forward the following government amendments.

Amendment number 3, clause 4, section 123F – Franchising Consultation Document

This amendment removes subsection (f) which requires a description of how persons are proposed to be invited to tender for the provisions of services to be included within the consultation document. There is no prescription elsewhere in the Bill which describes how the procurement process are to work, as this will be a decision of the authorities involved in the context of procurement law, and leaving this in would lead to an inconsistency of approach. Guidance will be provided on procurement approaches.

Amendments 4 – 8, clause 4, section 123H – Definition of time periods which must expire before services can be provided under local service contracts and provision in a franchising scheme revoking or varying an Enhanced Partnership Plan, Enhanced Partnership Scheme or an Advanced Quality Partnership Scheme

Amendments 4 and 5 amend sub-sections (2)(d) and (3)(c) to reflect the fact that the time period specified in a franchising scheme is a 'minimum' period of time that must expire between the making of a local service contract and the provision of services under that contract, and not a set period of time.

Amendment 6 adds a sub-section to 123H to clarify that the time period specified in the franchising scheme which must expire between a contract

being let and services being provided under that contract must not be less than 6 months.

Amendment 7 removes sub-sections (5) – (7), and replaces them with new sub-sections (4A) – (4C). The new sub-sections make clear that a franchising scheme cannot co-exist in an area where an Enhanced Partnership Plan, Enhanced Partnership Scheme or Advanced Quality Partnership Scheme is in operation. The sub-sections provide for an Enhanced Partnership Plan, Enhanced Partnership Scheme or Advanced Quality Partnership Scheme to be revoked, or varied so that it ceases to relate to the area in which the franchising scheme is being introduced.

Amendment 8 adds new sub-sections (4D) and (4E) which provide that the authority or authorities that made the original Enhanced Partnership Plan or Scheme which has been varied to cease to relate to the franchising scheme area, may vary the remainder Plan or Scheme as they consider appropriate as a consequence of the 'cease to relate' variation by a franchising scheme.

Amendment numbers 1 - 2, clause 1, section 113F(4) and 113M(6)

Reference to '123H(6)' has been deleted as a consequence of the fact that section 123H(6) has itself been removed by amendment 7.

Amendment 9, clause 4, section 123J – Definition of 'effective time', and period which must elapse before services can be provided under a local service contract

This amendment adds a new sub-section (7) to 123J to clarify that the 'effective time' is the beginning of the day on which a local service may first be provided under a local service contract. As previously drafted, it was not clear at what point in the day the 'effective time' had been reached.

Amendments 10 & 11, clause 4, section 123K – definition of the period which must elapse before services can be provided under a local service contract

Amendment 10 amends sub-section (4) to refer back to the period of time specified as part of the franchising scheme at sub-section (2)(d) or (3)(c) of 123H, and additionally makes clear that a later time may be specified in a contract. It also inserts a provision to make it clear that 123K(4) is subject to 123L which enables a service to be provided before six months have elapsed between the making of a contract and the provision of services under it (see below). Amendment 11 deletes sub-section (5) because 'effective time' has now been defined at 123J.

Amendment 12, clause 4, section 123L – exceptions to 123K

Amendment 12 amends sub-section (1) of 123L to make clear that a local service contract itself may specify the day on which services may first be provided under that contract in circumstances where urgent action is required.

Amendments 4 – 12, when taken together, deal with the period of time that must expire between the point at which an authority enters into a local service contract, and when services can start to be provided under that contract, and make it clear that this period is:

- 6 months;
- Longer if specified in the franchising scheme; or
- If an urgent contract is made, the time period specified in that contract.

The amendments also clarify the definition of ‘effective time’ – namely the beginning of the day on which a local service may first be provided under a local service contract. The Bill, as introduced, was not sufficiently clear on these points, and these amendments help to bring clarity.

Amendment 13, clause 4, section 123M – Authorities party to a variation of a franchising scheme

An additional sub-section has been added to section 123M to make clear that where a franchising scheme is varied to add an area which relates to another authority, then that authority must play an active part in the variation processes.

Amendments 14 - 17, clause 7, sections 134C and E – Making and varying Advanced Ticketing Schemes

Amendment 14 makes clear that sub-section (11) of 134C applies to varying a scheme as well as making a scheme. Amendments 15 and 16 make it clear that all the parties to the scheme must be involved in varying or revoking the scheme. Amendment 17 replaces the existing sub-section (7) to make clear that variation or revocation of an advanced ticketing scheme is subject to the

same procedures as making a scheme at sections 134C(1) to (9), 134D and sub-sections (1) to (5) of 134E.

As previously drafted it was not fully clear which of the procedures for making a scheme applied to varying or revoking a scheme. These amendments clarify that point.

Amendment 18, clause 9, section 138A – Enhanced Partnership Plans and Schemes

Amendments have been made to sub-section (7) to make clear that the Enhanced Partnership Scheme must state whether the operation of the scheme is to be reviewed, not 'a related scheme' as currently drafted.

Amendment 19, clause 9, section 138D – Area in which facilities are to be provided

An amendment has been made to sub-section (1)(a) of 138D replacing the words 'Enhanced Partnership Area' with 'area to which the Enhanced Partnership Scheme relates', as the original term was not defined.

Amendments 20 and 21, clause 9, section 138J – effect of plans and schemes

The amendments make clear that local transport authorities must provide facilities where an Enhanced Partnership Scheme requires them to do so. As currently drafted the Bill only requires authorities to provide facilities pursuant to an enhanced partnership scheme made by themselves.

Amendments 22 - 26, clause 9, section 138K - variation

Amendment 22 has been made to sub-section (1) to make clear which parties can vary an Enhanced Partnership Plan and any related Enhanced Partnership Scheme.

Amendments 23 and 24 amend sub-section (2) clarify that the plan or scheme can be varied, rather than just the plan as currently drafted.

Amendment 25 replaces the words 'Enhanced Partnership Area' with 'area to which the Enhanced Partnership Scheme relates', as the original term was not defined.

Amendment 26 amends sub-section (6) to make clear that where an Enhanced Partnership Plan or Scheme is varied to add an area which relates to another authority, then that authority is party to the Enhanced Partnership Plan or Scheme, and must play an active part in the variation processes.

Amendment 27, clause 9, section 138L – variation: preparation, notice and consultation

Sub-section (6) has been amended to make it clear clarify that the authority must, after giving notice of a proposal to vary a plan or scheme, consult the Competition and Markets Authority. As drafted, the Bill refers to giving notice of 'the proposed plan and scheme' rather than the proposed variation.

Amendments 28 - 33, clause 14, section 2 – Circumstances in which Traffic Commissioner functions are delegated

These amendments clarify the circumstances in which bus registration functions are automatically delegated from the traffic commissioner to the local transport authority where an Enhanced Partnership Scheme is in place. Where these powers are delegated, the local transport authority is responsible for registration of services running wholly in the area covered by the Enhanced Partnership Scheme, while the traffic commissioner continues to be responsible for registration of cross-boundary services.

The Bill, as currently drafted, automatically delegates the registration function when the scheme contains a route requirement that only relates to services that run wholly within the area covered by the Enhanced Partnership Scheme, meaning that if a route requirement applies to even one route which

crosses the boundary of the enhanced partnership scheme area then the registration functions are not automatically delegated. The policy intention is to ensure that registration functions are automatically delegated where route requirements affect any services operating wholly within the Enhanced Partnership area, and this amendment achieves the policy intention by providing that the functions are automatically delegated when a scheme contains a route requirement that relates to at least one service that runs wholly within the area covered by the scheme or to a description of services which includes, or is capable of including such a service.

This amendment ensures that a local transport authority, rather than the traffic commissioner, is made responsible for the registration of services that have route requirements imposed on them and are running wholly in the Enhanced Partnership Scheme area.

Amendment 28 amends 6G(2)(b) to ensure that the traffic commissioner must be notified when a scheme specifies route requirement which relates to one or more services that only have stopping places in the scheme area or to a description of services which includes, or is capable of including such a service. Amendment 29 amends 6G(4) to set out the requirement for functions to be automatically delegated in those circumstances. Amendment 30 makes a consequential amendment to 6G(4)(a) to clarify that the delegated functions are as regards 'services that only have stopping places in that area'.

Amendments 31 – 33 remove the word 'relevant' to make clear that the traffic commissioner must delegate the registration functions to the authority or lead authority who made the scheme.

Amendments 34 – 36, clause 14, section 2 – Clarifying which Traffic Commissioner functions should be delegated

Amendment 34 removes the reference to Regulations being made under 6G being able to make provision, in particular, as to the meaning of 'the relevant registration functions'. Amendment 35 then sets out on the face of the Bill the meaning of 'relevant registration functions'. This improves clarity and removes the ability to amend a reference in the Transport Act 1985 by way of regulations.

Amendment 36 then amends the definition of a 'relevant service' to refer back to 6G.

Amendment 37, clause 18, section 1 – Addition of local authorities to list of bodies who can reject applications to vary or cancel services if an operator fails to comply with regulations

This is a consequential amendment recognising that in certain circumstances, for example in an Enhanced Partnership where responsibility for registration has been delegated to the local transport authority, it will be the local transport authority, as opposed to the traffic commissioner, who should be able to reject applications to vary or cancel services if an operator fails to comply with regulations. The amendment enables regulations to be made providing for this scenario.

Amendment 38, schedule 1, paragraph 10 – Split of functions between ITAs and PTEs

The Bill originally amended S162(4) of the Transport Act 2000 to replicate, for advanced ticketing schemes, the provisions in relation to Quality Partnership Schemes which provided that references to Integrated Transport Authorities (ITAs) in specified sections of the Transport Act 2000 should be read as references to the Passenger Transport Executive (PTE) for the ITA concerned. After further consideration of whether provisions of this nature would be required for Advanced Quality Partnerships, Enhanced Partnerships and franchising, we concluded that it was not necessary to make explicit provision. Therefore this amendment removes the amendments to S162(4) of the Transport Act 2000.

Amendment 39, schedule 2, paragraph 23 – Consequential amendments as a result of changes made to 123 J, K, H & L

Reference to '123K(5)' has been replaced with reference to 123J(7) as a result of amendments to 123J, K, H and L.

Amendment 40, schedule 2 – Amendments to Local Transport Act 2008

New paragraphs 24 – 28 have been added to delete sections of the Local Transport Act 2008 in relation to Quality Contract Schemes which have been rendered redundant as a result of amendments to the Transport Act 2000.

Amendment 41, schedule 4 - Further amendments: Enhanced Partnership Plans and Schemes

This amendment ensures that the traffic commissioner can attach conditions to a Public Service Vehicle (PSV) operator's licence when it appears to a traffic commissioner that the operator has failed to take all reasonable steps to comply with the section 143B (see clause 10). Section 143B requires operators to provide certain information about their services to a local transport authority in connection with the preparation of an Enhanced Partnership Plan or Scheme or in connection with reviewing or determining whether and how to vary a Plan or Scheme.

The Bill as drafted provides a similar power for authorities considering franchising to request information from local bus service operators, and the Bill also includes an amendment which will enable the traffic commissioner to attach conditions to a PSV operator's licence if a bus operator has failed to take all reasonable steps to provide the information requested by the authority (this is provided for by clause 5). Amendment 41 ensures that there is a consistent approach in relation to Franchising and Enhanced Partnerships, and ensures that there are sanctions available if an operator does not take all reasonable steps to comply with a request for information in an Enhanced Partnership context. The provisions regarding the imposition of conditions on a PSV operator's licence (set out in the 1985 Transport Act) enable a traffic commissioner to prohibit the holder of the licence from using vehicles to provide local bus services of any description.

A copy of this letter has been placed in the library of the House.

*Yours sincerely,
Tariq Ahmad of Wimbledon*

LORD (TARIQ) AHMAD OF WIMBLEDON

Bus Services Bill [HL]

AMENDMENTS TO BE MOVED IN COMMITTEE

Clause 1

LORD AHMAD OF WIMBLEDON

- 1 Page 5, leave out line 3
2 Page 11, leave out line 2

Clause 4

LORD AHMAD OF WIMBLEDON

- 3 Page 18, leave out lines 5 and 6
4 Page 19, line 6, after first “the” insert “minimum”
5 Page 19, line 15, after “the” insert “minimum”
6 Page 19, line 17, at end insert –
“() A scheme may not specify under subsection (2)(d) or (3)(c) a period of less than six months.”
7 Page 19, leave out lines 22 to 28 and insert –
“(4A) If the franchising scheme relates to an area to which a relevant scheme or plan also relates, the franchising scheme must include –
(a) in a case where the relevant scheme or plan relates only to the area to which the franchising scheme relates or a part of that area, provision revoking the relevant scheme or plan, or
(b) in any other case, provision varying the relevant scheme or plan so that it ceases to relate to any part of the area to which the franchising scheme relates.
(4B) A franchising scheme may not otherwise vary a relevant scheme or plan.
(4C) In subsections (4A) and (4B) –
“relevant plan” means an enhanced partnership plan, and
“relevant scheme” means an advanced quality partnership scheme or an enhanced partnership scheme.”

- 8 Page 19, leave out lines 29 to 40 and insert—
- “(4D) If provision is made under subsection (4A)(b) to vary an enhanced partnership plan or scheme so that it ceases to relate to an area, the local transport authority or authorities to whose area or combined area the plan or, in the case of a scheme, the related plan continues to relate may vary the plan or, as the case may be, the scheme in such manner as they consider appropriate in consequence of the provision made under subsection (4A)(b).
- (4E) Section 138K(3) applies, and section 138K(4), (5) and (8) do not apply, to a variation under subsection (4D).”
- 9 Page 20, line 46, at end insert—
- “(7) The effective time, in relation to a local service contract, is the beginning of the day on which a local service may first be provided under the contract (see sections 123K(4) and 123L).”
- 10 Page 21, line 16, leave out from “until” to end of line 16 and insert “—
- (a) the expiry of the period that, under the scheme, must expire between the making of the contract and the provision of the local service under the contract (see section 123H(2)(d) and (3)(c)), or
- (b) such later time as may be specified in the contract.
- () Subsection (4) is subject to section 123L.”
- 11 Page 21, leave out lines 17 to 22
- 12 Page 21, line 37, leave out from beginning to “if” and insert “A local service contract may specify as the time when a local service may first be provided under the contract a time before the expiry of such period as is described in section 123K(4)(a), and that service may be provided from that time,”
- 13 Page 22, line 21, at end insert—
- “() The references in subsections (1) to (6) to the franchising authority or authorities in relation to a franchising scheme include a reference to a franchising authority who are not operating the scheme but would do so under a proposed variation.”

Clause 7

LORD AHMAD OF WIMBLEDON

- 14 Page 34, line 38, after “make” insert “or vary”
- 15 Page 35, line 34, after “authorities” insert “to whose area or combined area the scheme relates”
- 16 Page 35, line 34, at end insert—
- “() If the proposed variation would result in the scheme relating to all or part of the area of another local transport authority, the reference in subsection (6) to the authority or authorities includes that other authority.”

- 17 Page 35, leave out lines 35 to 46 and insert—
- “() The variation or revocation is subject to the same procedure as the making of the scheme and in the application of that procedure—
- (a) a reference in sections 134C(1) to (9) and 134D and subsections (1) to (5) to making a scheme is to be treated as a reference to varying or revoking a scheme,
 - (b) a reference in those provisions to the proposed scheme is to be treated as a reference to the scheme as proposed to be varied or to the proposed revocation of the scheme, and
 - (c) a reference in those provisions to the date on which a scheme comes into operation is to be treated as a reference to the date on which the scheme as varied comes into operation or the date on which the scheme comes to an end.”

Clause 9

LORD AHMAD OF WIMBLEDON

- 18 Page 37, line 21, leave out “a related enhanced partnership” and insert “the”
- 19 Page 40, line 39, leave out “enhanced partnership area” and insert “area to which the scheme relates”
- 20 Page 46, line 8, leave out “made by” and insert “requires”
- 21 Page 46, line 9, leave out “requires them”
- 22 Page 47, line 5, leave out from “authorities” to end of line 6 and insert “to whose area or combined area, or part of it, an enhanced partnership plan relates may vary the plan and any related enhanced partnership scheme.”
- 23 Page 47, line 7, after “plan” insert “or scheme”
- 24 Page 47, line 8, after “plan” insert “or scheme”
- 25 Page 47, line 27, leave out “enhanced partnership area” and insert “area to which the scheme relates”
- 26 Page 47, leave out lines 30 to 32 and insert—
- “() The references in subsections (1) and (3) to (5) and sections 138L and 138M to the local transport authority or authorities—
- (a) in relation to the variation of an enhanced partnership plan, or
 - (b) in relation to the variation of an enhanced partnership scheme, if the scheme is proposed to be varied at the same time as the related enhanced partnership plan is proposed to be varied,
- include a reference to a local transport authority to no part of whose area the plan relates but to whose area or part of it the plan would relate under a proposed variation.”
- 27 Page 48, line 34, leave out “proposed plan and scheme (or proposed scheme)” and insert “proposal”

Clause 14

LORD AHMAD OF WIMBLEDON

- 28 Page 63, line 21, leave out from “relates” to end of line 22 and insert “to—
 (i) a particular service that only has stopping places in the area to which the scheme relates,
 (ii) particular services at least one of which is such a service, or
 (iii) a particular description of services which includes or is capable of including such a service.”
- 29 Page 63, line 28, leave out from “relates” to end of line 29 and insert “to a particular service that only has stopping places in the area to which the scheme relates, particular services at least one of which is such a service or a particular description of services which includes or is capable of including such a service—”
- 30 Page 63, line 31, leave out “such services” and insert “services that only have stopping places in that area”
- 31 Page 64, line 3, leave out “relevant”
- 32 Page 64, line 4, leave out “relevant”
- 33 Page 64, line 5, leave out “relevant”
- 34 Page 64, line 10, leave out from “effect” to end of line 12
- 35 Page 64, line 15, at end insert—
 ““the relevant registration functions”, in relation to an enhanced partnership scheme, means the functions of a traffic commissioner under sections 6, 6D, 6E and 6F of this Act so far as relating to—
 (a) in the case of functions relating to the variation of registration, services that would be relevant services if varied as proposed, or
 (b) in the case of any other function, relevant services;
 “relevant service”, in relation to an enhanced partnership scheme, means a local service that only has stopping places in the area to which the scheme relates;”
- 36 Page 65, line 4, leave out from “service” to end of line 7 and insert “has the same meaning as in section 6G;”

Clause 18

LORD AHMAD OF WIMBLEDON

- 37 Page 69, line 24, after “commissioner” insert “or a body carrying out a traffic commissioner’s functions in accordance with section 6G”

Schedule 1

LORD AHMAD OF WIMBLEDON

- 38 Page 75, line 29, leave out sub-paragraph (3)

Schedule 2

LORD AHMAD OF WIMBLEDON

39 Page 79, line 3, leave out “123K(5)” and insert “123J(7)”

40 Page 79, line 27, at end insert—

“Local Transport Act 2008 (c. 26)

24 The Local Transport Act 2008 is amended as follows.

25 Omit sections 22 to 25 (QCS boards in England).

26 Omit section 27 (appeals against making of quality contract schemes in England).

27 Omit section 33 (continuation of quality contract schemes for areas in England).

28 Omit section 36 (appeals where proposed continuation of scheme considered non-exempt).”

Schedule 4

LORD AHMAD OF WIMBLEDON

41 Page 81, line 17, at end insert—

“(4) In subsection (1)(bzb) (inserted by Schedule {j190s}), after “143A” insert “or 143B”.”

