

Local Transport Bill [HL]

COMMONS AMENDMENTS

[The page and line references are to Bill 67, as first printed for the Commons]

Clause 1

- 1 Page 2, line 2, after “any” insert “provision of this Act or any other”

Clause 3

- 2 Page 5, line 24, at end insert “, if the senior traffic commissioner considers it appropriate”
- 3 Page 5, line 25, at end insert “, if the senior traffic commissioner considers it appropriate”
- 4 Page 5, leave out line 26 and insert –
“(d) such of the other traffic commissioners as the senior traffic commissioner considers appropriate;”
- 5 Page 5, line 30, leave out “thinks fit” and insert “considers appropriate”
- 6 Page 5, line 30, at end insert –
“(ee) such organisations representative of the interests of users of public passenger transport services as the senior traffic commissioner considers appropriate;”
- 7 Page 5, line 33, leave out “thinks fit” and insert “considers appropriate”
- 8 Page 5, line 34, leave out “thinks fit” and insert “considers appropriate”
- 9 Page 5, leave out lines 39 to 43 and insert –

“4D Guidance to senior traffic commissioner by Secretary of State

- (1) The Secretary of State may give the senior traffic commissioner guidance as to the exercise of any of the senior traffic commissioner’s functions.
- (2) The senior traffic commissioner must have regard to any guidance given under subsection (1) above.”

Clause 6

- 10 Page 9, line 22, after “any” insert “provision of this Act or any other”

Clause 8

- 11 Page 10, line 27, leave out from “government” to “with” in line 30 and insert “, 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”

Clause 9

- 12 Page 11, leave out line 14 and insert “an authority other than an Integrated Transport Authority must”
- 13 Page 11, leave out lines 24 and 25
- 14 Page 11, leave out line 27 and insert “an Integrated Transport Authority must consult—”
- 15 Page 11, leave out lines 40 and 41
- 16 Page 11, line 41, at end insert —

“(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).”

Clause 12

- 17 Page 13, line 13, leave out subsection (6) and insert —
- “(6) In section 198(2) of that Act (interpretation of certain references to authority’s local transport plan)—
- (a) for “local transport plan” (in the first place) substitute “local transport policies”;
 - (b) for “the local transport plan made jointly by” substitute “the local transport policies of”;
 - (c) omit the words from “and the councils” to the end.”

Clause 18

18 Page 17, line 32, at end insert –

- “() 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.”

Clause 19

19 Page 18, line 9, leave out subsection (3) and insert –

- “(3) For subsection (2) (need to comply with notice and consultation requirements and obtain approval of appropriate national authority) substitute –
- “(2) A quality contracts scheme may not be made unless the authority or authorities –
- (a) have complied with the requirements of section 125,
 - (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 126AB(5) the request which they sent to the QCS board under section 126AB(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 126AC(5) in relation to the scheme.”

20 Page 18, line 11, at end insert –

- “() In subsection (3)(b) (under quality contracts scheme local services to be provided only under quality contracts) after “section 127(4)” insert “and section 132C”.

Clause 20

21 Page 18, line 31, leave out “and”

22 Page 18, line 34, after “relates” insert “, 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.”

- 23 Page 19, line 10, at end insert –
“(f) the date by which any written responses to the consultation must be submitted to the authority or authorities.”
- 24 Page 19, line 16, at end insert –
“(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.”
- 25 Page 19, line 21, at end insert –
“(4A) In subsection (3) (consultees) at the beginning of paragraph (e) (traffic commissioners for the area of the scheme) insert “if the proposed scheme relates to an area in Wales,”.
- 26 Page 19, line 22, leave out subsection (5)

Clause 21

- 27 Page 19, line 30, at end insert –
“(1A) Before subsection (1) insert –
“(A1) This section has effect in any case where the scheme or proposed scheme relates to an area in Wales.”.
- 28 Page 19, line 30, at end insert –
“(1B) In subsection (1) (which refers to compliance with section 125) after “complied with” insert “the requirements of”.
- 29 Page 19, line 31, leave out subsections (2) and (3)
- 30 Page 19, line 39, at end insert –
“() In subsection (3) (right of person consulted under section 125(3) to make representations) for “consulted” substitute “who was consulted, or who is aggrieved at not being consulted,”.
- 31 Page 19, line 40, after “(4)(a)” insert “–
(a) ”
- 32 Page 19, line 41, at end insert “, and
(b) omit “or (as the case may be) paragraphs (a) to (d) of section 124(1A)”.
- 33 Page 19, line 42, leave out subsection (5)
- 34 Page 19, line 45, at end insert –
“(6) The heading to the section accordingly becomes “Approval of proposed schemes for areas in Wales”.

Clause 22

- 35 Page 20, leave out lines 4 and 5 and insert –

“(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.

(1A) The board is to consist of 3 members.”

36 Page 20, leave out lines 11 and 12 and insert –

“(4) 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.”

37 Page 20, line 16, leave out “the traffic commissioner’s knowledge of the area in question” and insert “any particular knowledge or experience that the traffic commissioner may have”

38 Page 20, line 32, leave out “that duty is” and insert “the duties of the senior traffic commissioner under that subsection are”

39 Page 20, line 33, at end insert –

“(8A) The persons who are to be members of the board by virtue of subsection (2)(b) are to be designated in such manner and at such time as may be prescribed.”

40 Page 20, line 37, at end insert –

“(10) In this section “prescribed” means prescribed in regulations under section 126B or 133.”

41 Page 20, line 37, at end insert –

“(2) In section 162 of the TA 2000 (interpretation of Part 2) insert the following definition at the appropriate place in subsection (1) –

““QCS board” is to be read in accordance with section 126A(1).”

42 Page 20, line 38, leave out subsection (2)

After Clause 22

43 Insert the following new Clause –

“Advice by boards or their Commissioners

After section 126A insert –

“126AA 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 126AB(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.”.”

44 Insert the following new Clause –

“Consideration of proposed schemes by boards

After section 126AA insert –

“126AB 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 126AC 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 126AC,
 - (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 126AC(7), and
 - (b) desire the QCS board to exercise its functions under section 126AC 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.

126AC Consideration of proposed schemes by boards

- (1) Following receipt of a request from the authority or authorities under section 126AB(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 131AB(3) (non-exempt proposal to continue scheme), the rights of appeal under section 131D 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 126AB(4) by virtue of section 126AB(6),
- this section has effect with such modifications or exclusions as may be prescribed by regulations under section 126B or 133.”

Clause 23

- 45 Page 21, line 2, leave out “126A” and insert “126AC”
- 46 Page 21, line 3, leave out “approvals boards for England” and insert “boards”
- 47 Page 21, line 4, leave out “rules” and insert “regulations”
- 48 Page 21, line 4, at end insert –
- “() with respect to the constitution of a QCS board,
 - () with respect to the powers and duties of any such board,”
- 49 Page 21, line 6, leave out “approvals board for England” and insert “such board”

- 50 Page 21, line 9, leave out “rules” and insert “regulations”
- 51 Page 21, leave out lines 11 to 19 and insert –
 “(a) provision about requests under section 126AB(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 126AB(4) is sent to the QCS board by virtue of section 126AB(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.”
- 52 Page 21, line 21, leave out “approvals board for England” and insert “QCS board”
- 53 Page 21, line 21, leave out from “normally” to end of line 22 and insert “have published its report”
- 54 Page 21, line 23, leave out “an approvals board for England” and insert “a QCS board”
- 55 Page 21, line 24, leave out from “to” to end of line 25 and insert “publish its report within that time.”
- 56 Page 21, line 26, leave out from beginning to end of line 34 and insert –
 “(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.”
- 57 Page 21, line 39, leave out “that made the application for approval” and insert “proposing to make the scheme”
- 58 Page 21, line 42, after “a” insert “QCS”
- 59 Page 21, line 44, after “A” insert “QCS”
- 60 Page 22, leave out lines 1 and 2
- 61 Page 22, line 4, at end insert –
 ““report” means the report which the board is required to publish by virtue of section 126AC(5).”.
- 62 Page 22, leave out lines 5 to 10

Clause 24

- 63 Leave out Clause 24

Clause 25

64 Leave out Clause 25

Clause 26

65 Page 25, leave out lines 1 to 22 and insert –

“(2) For subsection (1) (making of scheme to be not later than 6 months after approval by appropriate national authority) substitute –

“(1) The authority or authorities who proposed the scheme may make it –

- (a) in the case of a scheme for an area in England, in accordance with the requirements of subsection (1A);
- (b) in the case of a scheme for an area in Wales, in accordance with the requirements of subsection (1B).

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

- (a) must not make the scheme until they publish a response prepared by them to the report published by the QCS board under section 126AC(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 126AC(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.”.”

66 Page 25, line 36, leave out “the authority or authorities propose to” and insert “it is proposed that the authority or authorities will”

67 Page 26, line 3, leave out “(1), (1A)” and insert “(1A), (1B)”

68 Page 26, line 3, at end insert –

“() In section 162(4) of the TA 2000 (provisions where references to Passenger Transport Authorities or Integrated Transport Authorities are to be read as references to Passenger Transport Executives) insert at the appropriate place in the list of provisions –

“section 127(3A),”.”

After Clause 26

69 Insert the following new Clause –

“Appeals against the making of schemes for areas in England

(1) After section 127 of the TA 2000 insert –

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

- (1) This section applies where an authority or authorities make a quality contracts scheme for an area in England.
- (2) Any person falling within subsection (3) may appeal to the Transport Tribunal against the decision of the authority or authorities to make the scheme.
- (3) The persons are –
 - (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 126AC(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 126AC(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 126AC(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).”.
- (2) In section 162(4) of the TA 2000 (provisions where references to Passenger Transport Authorities or Integrated Transport Authorities are to be read as references to Passenger Transport Executives) insert at the appropriate place in the list of provisions –
“section 127A(7).”.

Clause 28

- 70 Page 26, line 18, at end insert –
“(c) in paragraph (b), after “under a quality contract” insert “or is an interim service (see section 132C).”.
- 71 Page 26, line 24, after “registration” insert “or variation”

Clause 30

- 72 Page 27, line 5, leave out first “the” and insert “a quality contracts”
- 73 Page 27, line 8, leave out from “must” to end of line 15 and insert “, unless the proposal that the scheme should continue is an exempt continuation proposal (see section 131AA), 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.”
- 74 Page 27, line 15, at end insert –

“(2A) 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 (2B) and (3), but this is subject to such modifications or exclusions as may be prescribed by regulations under section 133.

(2B) 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 traffic commissioners for areas to which scheme relates) applies with the omission of the words “if the proposed scheme relates to an area in Wales.”

75 Page 27, line 16, leave out “mentioned in subsection (2)(a) must” and insert “that is to be published by virtue of section 125(1)(a), as applied by subsection (2A), must (instead of complying with section 125(1A))”

76 Page 27, line 37, leave out from “exempt” to “a” in line 38 and insert “continuation proposal,”

77 Page 27, line 48, at end insert –
“(j) the date by which any written responses to the consultation must be submitted to the authority or authorities.”

78 Page 27, line 48, at end insert –
“(3A) 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 (3)(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 (3)(h) as it applies for the purposes of subsection (1A)(e) of that section.”

79 Page 28, leave out lines 1 to 8

80 Page 28, line 9, leave out “(2)(a)” and insert “(3)”

81 Page 28, line 10, leave out “subsection (2)” and insert “section 125(1)(a) and (b) (as applied by this section)”

82 Page 28, line 11, after “before” insert “the scheme’s expiry date.

(5A) For the purposes of this section, a scheme’s “expiry date” is”

83 Page 28, line 16, at end insert –

“(5B) 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.”

84 Page 28, line 20, leave out from “until” to end of line 41 and insert –

- “(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.”

85 Page 28, line 41, at end insert –

- “() 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).”

After Clause 30

86 Insert the following new Clause –

“Exempt continuation proposals

- (1) After section 131A of the TA 2000 insert –

“131AA 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 –
(a) under a contract with one or more local transport authorities, or
(b) 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 131C (which makes provision about appeals relating to exempt continuation proposals).”.
- (2) In section 162 of that Act (interpretation of Part 2) insert the following definition at the appropriate place in subsection (1) –
““exempt continuation proposal” is to be read in accordance with section 131AA.”.”

87 Insert the following new Clause –

“Continuation of schemes for areas in England: procedure

After section 131AA of the TA 2000 insert –

“131AB 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(5B),
 - (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.”.

Clause 31

88 Leave out Clause 31

After Clause 31

89 Insert the following new Clause –

“Continuation of schemes for areas in Wales: procedure

After section 131AB of the TA 2000 insert –

“131B 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(5B),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.””

Clause 32

90 Page 30, leave out lines 32 to 36 and insert –

- “(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.”

91 Page 30, line 37, leave out from “person” to “may” in line 38 and insert “falling within subsection (2A)”

92 Page 30, leave out line 40 and insert “an exempt continuation proposal, or”

- 93 Page 30, line 42, leave out “force” and insert “operation”
- 94 Page 30, line 42, at end insert –
“(2A) 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.”
- 95 Page 30, line 42, at end insert –
“(2B) An appeal under this section may be –
(a) on a point of law, or
(b) on a question of fact.”
- 96 Page 30, line 42, at end insert –
“(2C) 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.”
- 97 Page 30, leave out from beginning of line 46 to end of line 5 on page 31 and insert –
“(b) remit the matter to the authority or authorities with one or more directions under subsection (4),
(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 (4A)),
(d) quash the whole or any part of the decision of the authority or authorities (but see subsection (4B)).”
- 98 Page 31, leave out lines 10 to 12 and insert –
“(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,”
- 99 Page 31, line 13, leave out “modifications of the scheme” and insert “variations of the scheme, as it continues or is to continue in operation,”
- 100 Page 31, line 14, at end insert –
“(4A) 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.

(4B) 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 (3)(b) or (c).”
- 101 Page 31, leave out lines 15 to 21 and insert –
“(5) 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 (6) to (9) have effect.
- (6) 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 131AA (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.
- (7) Where the Tribunal give directions falling within subsection (6), 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.
- (8) 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 131B, 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 (6)(c).
- (9) 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.””

Clause 33

- 102** Page 31, line 25, leave out from “where” to end of line 29 and insert “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.”
- 103** Page 31, leave out lines 30 to 38 and insert –
- “(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 126AC(1)(b), ought to have been so consulted.”

104 Page 31, line 39, leave out “Subsections (4) to (6) of section 126D” and insert “Sections 127A(4) to (7) and 127B”

105 Page 31, line 41, leave out from “of” to end of line 4 on page 32 and insert “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.”

Clause 34

106 Page 32, line 9, at end insert—

“(2A) In subsection (4) (grounds for revocation) for “or” at the end of paragraph (a) substitute—

“(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”.”

107 Page 32, line 10, leave out subsection (3) and insert—

“(3) In subsection (4A) (which defines the “relevant conditions” according to whether the scheme has been varied or not)—

- (a) in paragraph (a), before “varied” insert “continued in operation under section 131A or”,
- (b) also in paragraph (a), for “124(1)(a) and (b)” substitute “124(1)(a) to (e)”,
- (c) in paragraph (b), before “varied” insert “continued in operation under section 131A or”,

- (d) in paragraph (c), before “varied”, in the first place where it occurs, insert “continued in operation under section 131A or”,
- (e) also in paragraph (c), before “varied”, in the second place where it occurs, insert “continued in operation or”.

108

Page 32, line 12, leave out from beginning to “A” in line 20 and insert –

“(4) For subsection (5) (procedure for varying or revoking a scheme etc) substitute –

“(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 each relevant 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 each relevant 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.

For the purposes of this subsection “relevant traffic commissioner” means the traffic commissioner for any traffic area which consists of or includes the whole or any part of the area to which the scheme relates.

(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 126B 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 any traffic commissioner falling within section 125(3)(e) (which

accordingly has effect for this purpose with the omission of the words “if the proposed scheme relates to an area in Wales,”);

- (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) ”

109 Page 32, line 25, at end insert –

“and a “non-exempt variation” is any other variation of a scheme.”.”

110 Page 32, line 25, at end insert –

“(5) In consequence of the amendments made by subsection (4), renumber subsection (6) (regulations about revoking schemes before they come into operation) as subsection (12).”

Clause 35

111 Page 32, leave out lines 29 to 33 and insert –

“(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.”

112 Page 32, line 34, leave out from “person” to “may” in line 35 and insert “falling within subsection (2A)”

113 Page 32, line 39, at end insert –

“(2A) 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.”

114 Page 32, line 39, at end insert –

“(2B) An appeal under this section may be—
(a) on a point of law, or
(b) on a question of fact.”

115 Page 32, line 39, at end insert—

“(2C) 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.”

116 Page 32, leave out from beginning of line 43 to end of line 4 on page 33 and insert—

“(b) remit the matter to the authority or authorities with one or more directions under subsection (4),
(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 (4A)),
(d) quash the whole or any part of the decision of the authority or authorities.”

117 Page 33, leave out lines 9 to 11 and insert—

“(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),”

118 Page 33, line 12, leave out “modifications” and insert “variations”

119 Page 33, line 13, at end insert—

“(4A) 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.”

120 Page 33, leave out lines 14 to 20 and insert—

“(5) 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 (6) to (9) have effect.

(6) 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.

- (7) Where the Tribunal give directions falling within subsection (6), 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.
- (8) 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 (6)(c).
- (9) 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.”

After Clause 35

121 Insert the following new Clause—

“Exemption from s.132 for specific variations directed by Transport Tribunal

After section 132A of the TA 2000 insert—

“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 131C(2)(a) against a decision that a proposal was an exempt continuation proposal,
 - (c) an appeal under section 131C(2)(b) against a decision that a scheme should continue in operation,
 - (d) an appeal under section 131D(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.”.”

122 Insert the following new Clause –

“Power of authorities to provide services in exceptional circumstances

- (1) After section 132B of the TA 2000 insert –

“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 the traffic commissioner on the application of the authority.

- (6) The 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) An application under paragraph (b) of subsection (5) must be made—
 - (a) to the traffic commissioner for the traffic area in which the interim service is provided (or, if the service is provided in more than one such area, to the traffic commissioner for any of those areas), and
 - (b) not later than 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.”.
- (2) In section 162(4) of the TA 2000 (provisions where references to Passenger Transport Authorities are to be read as references to Passenger Transport Executives) at the appropriate place insert—

“section 132C,
section 132D,”.
- (3) In section 66(1) of the TA 1985 (exclusion of powers of certain councils to run bus undertakings) after “subsection (2) below” insert “and to section 132C of the Transport Act 2000”.

Clause 36

123 Page 33, line 24, leave out “after “varying” insert “, continuing”” and insert “after “making” insert “continuing,””

124 Page 33, line 24, at end insert—

- () In subsection (1)(b) (approvals of schemes) after “schemes” insert “for areas in Wales”.
- () After subsection (1)(b) insert—
 - “(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,”.

- 125 Page 33, line 26, leave out “after “proposed variations” insert “, continuations”” and insert “before “variations” insert “continuations,””
- 126 Page 33, line 27, at end insert –
“() in paragraph (e) (applications for approval of proposals) after “proposals” insert “for areas in Wales;”
- 127 Page 33, line 30, at end insert –
“(ef) the form and manner of requests under section 126AB(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 126AB(5),
(eh) the giving of notice, and the preparation and publication of reports, by QCS boards under section 126AC(5),
(ei) the form and manner of responses by local transport authorities to such reports;”
- 128 Page 33, line 31, leave out “for “or variations” substitute “, variations or continuations”” and insert “after “schemes” insert “, continuations””
- 129 Page 33, line 32, at end insert –
“(d) in paragraph (g) (notice of schemes or of their variation or revocation) before “variation” insert “continuation;”.
- 130 Page 33, line 32, at end insert –
“(4) After subsection (2) insert –
“(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 126AB(6), send to a QCS board a further request under section 126AB(4) and modified proposals under section 126AB(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.”.

Clause 37

- 131 Page 33, line 38, at end insert –
“() In subsection (1)(b) (transitional provision in connection with variation of schemes) before “variation” insert “continuation in operation or”.

Clause 39

132 Page 34, line 23, at end insert –

“(1A) Subsection (2) 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).”

133 Page 34, line 24, leave out “such situation” and insert “situation to which this subsection applies”

134 Page 34, line 31, after “subsection (1)(a)” insert “or (as the case may be) the local services referred to in subsection (1A)(a)”

135 Page 34, line 31, at end insert –

“() 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.”

136 Page 35, line 16, at end insert –

“(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.

(5A) 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.
- (5B) The Secretary of State must exercise the power conferred by this section to make regulations containing provision falling within subsection (5)(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.
- (5C) For the purposes of subsection (5B) –
- “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 (5A)(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.”

Clause 44

- 137** Page 39, line 43, after “service” insert “which is to have one or more stopping places”
- 138** Page 40, line 4, at end insert –
- “(2A) After subsection (7) (variation or revocation of registration) insert –
- “(7A) Where –
- (a) a quality contracts scheme under section 124 of the Transport Act 2000 is in force,
- (b) the operator of a local service registered under this section proposes to vary the registration,
- (c) the service, as proposed to be varied, is to have one or more stopping places within the area to which the scheme relates,
- (d) the service, as proposed to be varied, is not excluded from the scheme by virtue of section 127(4) of the Transport Act 2000, and
- (e) the operator does not propose to provide the service, as proposed to be varied, under a quality contract by virtue of the scheme,
- section 6B of this Act has effect with respect to the variation of the registration.”.
- (2B) In subsection (8) (time when variation etc becomes effective) after “Subject to regulations under this section” insert “and, in the case of variation, to section 6B of this Act.”.
- 139** Page 40, leave out lines 7 to 19 and insert –
- “(1) This section applies –
- (a) by virtue of subsection (2B) of section 6 of this Act (“Case 1”), in relation to registration of the proposed local service mentioned in that subsection;
- (b) by virtue of subsection (7A) of that section (“Case 2”), in relation to the proposed variation of the registration mentioned in that subsection.
- (2) Where this section applies, the operator may apply to a traffic commissioner –
- (a) in Case 1, for registration of the proposed service under section 6 of this Act, or
- (b) in Case 2, for variation of the registration under that section, notwithstanding anything in section 129(1)(a) of the Transport Act 2000 (sections 6 to 9 of this Act not to apply).”.
- 140** Page 40, line 21, leave out “the following provisions of this section” and insert “subsections (4) to (6) below”
- 141** Page 40, line 26, leave out “proposed service” and insert “application”
- 142** Page 40, line 26, after “must” insert “–
- (a) in Case 1,”
- 143** Page 40, line 27, at end insert “, or
- (b) in Case 2, vary the registration under that section.”

- 144 Page 40, line 29, at end insert –
“(6A) In relation to Case 2, regulations may prescribe cases in which subsections (3) to (6) above do not apply.”
- 145 Page 40, line 31, after “provision” insert “ –
(a) in Case 1,”
- 146 Page 40, line 32, leave out “will” and insert “, or
(b) in Case 2, of the local service as proposed to be varied,
will”

Clause 59

- 147 Page 52, line 41, leave out from “subsection (3)” to end of line 42 and insert “in the manner mentioned in subsection (1AA)”
- 148 Page 53, line 3, at end insert –
“(1AA) An order under subsection (1A)(b) may require the operator to expend money on or towards –
(a) the provision of specified local services or specified facilities to be used in connection with such services;
(b) specified improvements in such services or facilities.
In this subsection “specified” means specified in the order.”

Clause 68

- 149 Page 58, line 8, after “any” insert “provision of this Act or any other”
- 150 Page 59, line 11, leave out “an” and insert “this Act or any other”
- 151 Page 59, line 35, leave out “an” and insert “this Act or any other”

Clause 69

- 152 Page 60, line 7, leave out “or”
- 153 Page 60, line 9, at end insert –
“(c) prescribed tramway passenger services, or tramway passenger services of a prescribed description, so far as operating in England;
(d) prescribed passenger transport facilities in England, or passenger transport facilities in England that are of a prescribed description.”
- 154 Page 60, line 11, after “enactment” insert “(including this Act)”
- 155 Page 60, line 22, after “any” insert “provision of this Act or any other”
- 156 Page 60, line 31, leave out from “to” to end of line 32 and insert “ –
(a) services of a kind mentioned in paragraphs (a) to (c) of subsection (1), so far as operating in England, or
(b) passenger transport facilities in England.”
- 157 Page 60, line 45, at end insert –
““passenger transport facilities” means facilities for services of a kind mentioned in paragraphs (a) to (c) of subsection (1);”
- 158 Page 61, line 2, at end insert –

““tramway passenger service” means any service for the carriage of passengers by tramway.””

Clause 73

159 Page 64, line 22, leave out subsections (7) to (9)

After Clause 73

160 Insert the following new Clause –

“Provision that may be made in an order under section 73

- (1) An order under section 73 may make, in relation to the ITA, –
 - (a) provision about its constitutional arrangements (within the meaning given by section 78(2)),
 - (b) any provision which may be made by an order under section 79, 80 or 81.
- (2) An order made by virtue of subsection (1)(a) which includes provision about the number and appointment of members of the ITA must provide –
 - (a) for a majority of the members of the ITA to be appointed by the ITA’s constituent councils (see subsection (3)),
 - (b) for those members to be appointed from among the elected members of the constituent councils, and
 - (c) for each of the representative councils (see subsection (4)) to appoint at least one of its elected members as a member of the ITA.
- (3) For the purposes of this section, the constituent councils of an ITA are –
 - (a) any county council, and
 - (b) any district council,for an area within the integrated transport area of the ITA.
- (4) For the purposes of subsection (2)(c), the following councils are representative councils in respect of an area to be designated as the integrated transport area of an ITA –
 - (a) if that area includes the whole of a county, the county council;
 - (b) if that area includes a metropolitan district or a non-metropolitan district comprised in an area for which there is no county council, the district council;
 - (c) if that area includes one or more districts in a county but does not include the whole county, either the county council or the council for each of those districts (as determined by or in accordance with the order in question).
- (5) If an order made by virtue of subsection (1)(a) provides for members of an ITA to be appointed otherwise than from among the elected members of its constituent councils (see subsection (2)(a) of section 78), it must provide for those members to be non-voting members (see subsection (2)(b) of that section).
- (6) The voting members of an ITA may resolve that provision made in accordance with subsection (5) is not to apply in the case of the ITA.”

Clause 76

161 Page 66, line 43, leave out “direction” and insert “review”

Clause 78

162 Page 68, line 32, leave out subsections (3) and (4)

After Clause 78

163 Insert the following new Clause –

“Provision that may be made in an order under section 78: membership of ITA

- (1) An order made by virtue of section 78(2)(a) which includes provision about the number and appointment of members of the ITA must provide –
 - (a) for a majority of the members of the ITA to be appointed by the ITA’s constituent councils (see subsection (2)),
 - (b) for those members to be appointed from among the elected members of the constituent councils, and
 - (c) for each of the representative councils (see subsection (3)) to appoint at least one of its elected members as a member of the ITA.
- (2) For the purposes of this section, the constituent councils of an ITA are –
 - (a) any county council, and
 - (b) any district council,for an area within the integrated transport area of the ITA.
- (3) For the purposes of subsection (1)(c), the following councils are representative councils in respect of an area which is, or is to be designated as, the integrated transport area of an ITA –
 - (a) if that area includes the whole of a county, the county council;
 - (b) if that area includes a metropolitan district or a non-metropolitan district comprised in an area for which there is no county council, the district council;
 - (c) if that area includes one or more districts in a county but does not include the whole county, either the county council or the council for each of those districts (as determined by or in accordance with the order).
- (4) If an order under section 78 provides (by virtue of subsection (2)(a) of that section) for members of an ITA to be appointed otherwise than from among the elected members of its constituent councils, the order must provide (by virtue of subsection (2)(b) of that section) for those members to be non-voting members.
- (5) The voting members of an ITA may resolve that provision made in accordance with subsection (4) is not to apply in the case of the ITA.”

Clause 80

164 Page 69, line 43, at end insert –

- “() An order under this section which provides for the delegation of any function of a charging authority within the meaning of Part 3 of the TA 2000 may be made –

- (a) where the area in relation to which the order has effect comprises all or part of the area of one charging authority, only with the consent of that authority;
- (b) where that area comprises all or part of the area of two or more charging authorities, only with the consent of a majority of those authorities.”

Clause 86

165 Page 73, line 41, after “amending,” insert “modifying,”

166 Page 73, line 42, at end insert –

“() The provision which may be included by virtue of subsection (4) does not include provision amending or disapplying sections 15 to 17 of, and Schedule 1 to, the Local Government and Housing Act 1989 (c. 42) (political balance on local authority committees etc).”

Clause 87

167 Page 74, line 6, at end insert –

“(3) If, apart from this subsection, an instrument containing an order under this Chapter would be treated for the purposes of the standing orders of either House of Parliament as a hybrid instrument, it shall proceed in that House as if it were not a hybrid instrument.”

Clause 104

168 Page 81, line 38, at end insert –

“(1A) For subsection (1) substitute –

“(1A) Where the charging authority or any of the charging authorities are –

- (a) a local traffic authority for an area in England, or
- (b) an Integrated Transport Authority,

that authority or those authorities (acting alone or jointly) must consult such local persons, and such representatives of local persons, as they consider appropriate about the charging scheme.

(1B) In subsection (1A) –

“local persons” means any persons who are likely to be affected by, or interested in, the making of the scheme;

“representatives” means any persons who appear to the charging authority or charging authorities to be representative of local persons.

(1C) In any other case, the charging authority or the charging authorities (acting jointly) may, at any time before an order making, varying or revoking a charging scheme under this Part is made, consult such persons as they consider appropriate about the charging scheme, variation or revocation.””

After Clause 116

169 Insert the following new Clause –

“Street works: reinstatement and remedial works

- (1) The New Roads and Street Works Act 1991 (c. 22) is amended as follows.
- (2) In section 48 (streets, street works and undertakers) after subsection (3) (meaning of “street works”) insert –
 - “(3A) For the purposes of subsection (3), the works that are street works by virtue of being works required for or incidental to street works of any particular kind include –
 - (a) reinstatement of the street, and
 - (b) where an undertaker has failed to comply with his duties under this Part with respect to reinstatement of the street, any remedial works.”.
- (3) In section 50 (street works licences) after subsection (1) (power to grant a licence to do certain works) insert –
 - “(1A) For the purposes of subsection (1), the works that are required for or incidental to works falling within paragraph (a) or (b) of that subsection include –
 - (a) reinstatement of the street, and
 - (b) where an undertaker has failed to comply with his duties under this Part with respect to reinstatement of the street, any remedial works.”.

After Clause 118

170 Insert the following new Clause –

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

- (1) Part 6 of the Traffic Management Act 2004 (c. 18) (civil enforcement of traffic contraventions) is amended as follows.
- (2) In section 76 (civil enforcement officers) at the end insert –
 - “(6) In this section “local authority” includes a non-metropolitan district council.”.
- (3) In section 85 (prohibition of double parking) at the end insert –
 - “(9) In this section “local authority” includes a non-metropolitan district council.”.
- (4) In section 86 (prohibition of parking at dropped footways etc) at the end insert –
 - “(10) In this section “local authority” includes a non-metropolitan district council.”.
- (5) In section 87 (guidance to local authorities) at the end insert –

“(3) In this section “local authority” includes a non-metropolitan district council.””

171 Insert the following new Clause –

“Financial penalty deposits: powers of vehicle examiners in Scotland

In section 90F of the Road Traffic Offenders Act 1988 (c. 53), in the definition of “conditional offer”, after “75(3)(a)” insert “or (3B)(a)”.”

Clause 123

172 Page 94, line 15, at end insert –

“(1a) section (*Financial penalty deposits: powers of vehicle examiners in Scotland*);”

Clause 124

173 Page 94, line 31, leave out “and 116” and insert “, 116, (*Street works: reinstatement and remedial works*) and (*Civil enforcement of traffic contraventions: meaning of “local authority”*)”

Clause 125

174 Page 95, line 8, leave out subsection (2)

Schedule 4

175 Page 115, line 8, at end insert –

“46A In section 198(2) (interpretation of certain references to authority’s local transport plan) for “the Passenger Transport Authority for the passenger transport area” substitute “the Integrated Transport Authority for the integrated transport area”.”

Schedule 7

176 Page 126, leave out line 35 and insert –

“In section 198(2), the words from “and the councils” to the end.”

177 Page 127, line 7, column (2), at end insert “In section 126(4)(a), the words “or (as the case may be) paragraphs (a) to (d) of section 124(1A)”.”

In the Title

178 Line 8, after “roads;” insert “to make provision about the meaning of “street works” and “street works licence” in Part 3 of the New Roads and Street Works Act 1991;”

179 Line 8, after “roads;”, insert “to amend Part 6 of the Traffic Management Act 2004 and section 90F of the Road Traffic Offenders Act 1988;”