

Local Transport Bill:

Extracts from the Transport Act 1985

(as proposed to be amended)

February 2008

INTRODUCTION

This document shows amendments to the Transport Act 1985 that would be made by the Local Transport Bill [HL], as amended in the House of Lords, if the Bill were to be enacted without further amendment. Where sections of, or Schedules to, the Act are shown as having been omitted, this is because they would not be substantively amended by the Bill.

The document has been prepared by the Department for Transport to assist the reader of the Bill; it has not been endorsed by Parliament, and it carries no legal force. While the Department has sought to ensure its accuracy, no liability can be accepted for any errors that remain.

**EXTRACTS FROM THE TRANSPORT ACT 1985,
SHOWING HOW IT WOULD BE AMENDED BY THE LOCAL TRANSPORT BILL [HL]**

<Opening sections omitted as they are unaffected by the Local Transport Bill>

Registration of local services

6 Registration of local services <as it applies in England and Wales> <amended, in relation to England and Wales, by clauses 43, 44 and 60>

(1) In this section "service" means a local service which is neither a London local service nor a service which falls within subsection (1A) below nor a service provided under an agreement entered into, where a railway service has been temporarily interrupted, with the Secretary of State, the Scottish Ministers or the National Assembly for Wales under section 40 of the Railways Act 2005 (substitution services provided for interrupted or discontinued railway services).

(1A) A service falls within this subsection if conditions A and B are satisfied in relation to it.

(1B) Condition A is satisfied if the service is provided in pursuance of--

- (a) the obligation placed on a local education authority by section 508B(1), section 508F(1), section 509(1) or (1A), or section 509AA(7)(b) or (9)(a) of the Education Act 1996 (provision of transport etc);
- (b) the exercise of the power of a local education authority under section 508C(1) of that Act; or
- (c) arrangements made by a local education authority in pursuance of a scheme made by them under Schedule 35C to that Act (school travel schemes).

(1C) Condition B is satisfied if the service is for the carriage of any of the following persons (and no other)--

- (a) a person receiving education or training at premises to or from which transport is provided in pursuance of the obligation, the exercise of the power or the arrangements, as the case may be, mentioned in paragraph (a), (b) or (c) of subsection (1B);
- (b) a person supervising or escorting any such person while he is using such transport;
- (c) a person involved with the provision of education or training at any such premises.

(2) Subject to regulations under this section, no service shall be provided in any traffic area in which there is a stopping place for the service unless--

- (a) the prescribed particulars of the service have been registered with the traffic commissioner for that area by the operator of the service;
- (b) the period of notice in relation to the registration has expired; and
- (c) the service is operated in accordance with the registered particulars.

(2A) Where—

- (a) any registration restrictions imposed under section 114(3A) of the Transport Act 2000 (quality partnership schemes) are in force, and**
- (b) an application for registration is made in respect of a service in relation to which those restrictions have effect,**
section 6A of this Act has effect in relation to the application.

(2B) Where—

- (a) a quality contracts scheme under section 124 of the Transport Act 2000 is in force,**
- (b) an operator proposes to provide a local service within the area to which the scheme relates,**
- (c) the proposed service is not excluded from the scheme by virtue of section 127(4) of the Transport Act 2000, and**
- (d) the operator does not propose to provide the service under a quality contract by virtue of the scheme,**
section 6B of this Act has effect with respect to registration of that service.

(3) In subsection (2) above "the period of notice", in relation to any registration, means, subject to regulations under this section--

- (a) the period prescribed for the purposes of this subsection; or
- (b) if longer, the period beginning with the registration and ending with the date given to the traffic commissioner by the operator as the date on which the service will begin.

(4) An application for registration shall only be accepted from a person who either holds an unconditional PSV operator's licence or a permit under section 22 of this Act or is using, or proposing to use, a school bus belonging to that person for fare-paying passengers in accordance with section 46(1) of the 1981 Act.

(5) In subsection (4) above "unconditional", in relation to a PSV operator's licence, means a licence which does not have attached to it a condition imposed under section 26(1) of this Act prohibiting, or having the effect of prohibiting, the operator from using vehicles under the licence to provide the service to which the application in question relates.

(6) In this Act any reference to a service registered under this section is a reference to a service in respect of which the prescribed particulars are registered under this section.

(7) Any registration may be varied or cancelled on an application made by the operator of the service to which it relates.

(8) Subject to regulations under this section, the variation or cancellation of a registration shall become effective--

- (a) on the expiry of the period beginning with the date on which the traffic commissioner accepts the application and ending with the date determined in accordance with regulations under this section; or
- (b) if later, on the day given to the traffic commissioner by the operator as the effective date for the variation or (as the case may be) cancellation.

(9) Regulations may be made for the purpose of carrying this section into effect and any such regulations may, in particular, make provision--

- (a) for permitting the variation of a registered service, in such circumstances as may be prescribed, without variation of the registration;
- (b) for excluding or modifying the application of subsection (3) or (8) above in such cases or classes of case as may be prescribed;
- (c) that in such cases or classes of case as may be prescribed--
 - (i) subsection (2) above shall have effect as if for the reference in paragraph (b) to the period of notice there were substituted a reference to such period as the traffic commissioner may determine;
 - (ii) subsection (8) above shall have effect as if for the reference in paragraph (a) to the date on which the period mentioned in that paragraph is to expire there were substituted a reference to such date as he may determine;
- (d) as to the procedure for applying for registration or for the variation or cancellation of a registration;
- (e) for an application for registration or for the variation or cancellation of a registration not to be accepted by the traffic commissioner to whom it is made unless the applicant gives to the commissioner such information as he may reasonably require in connection with the application;
- (f) as to the traffic commissioner to whom an application for registration is to be made in the case of services which will run through the areas of two or more traffic commissioners;
- (g) as to the documents (if any) to be issued by a traffic commissioner with respect to registrations;
- (h) as to the cancellation of registrations relating to discontinued services;
- (i) for enabling a traffic commissioner to require the operator of a registered service, in such circumstances as may be prescribed, to keep records of such matters relating to the operation of the service, in such manner, as may be prescribed;
- (j) for requiring the operator of a registered service who is required to keep records by regulations made by virtue of paragraph (i) above to make those records available to the traffic commissioner;
- (k) for requiring the operator or prospective operator of a registered service to give, to such persons and at such times as may be prescribed, such information as may be prescribed with respect to the service, or proposed service, or any proposal to vary or cancel the registration of the service;
- (ka) for imposing restrictions on the use that may be made of records made available as mentioned in paragraph (j) above or information given as mentioned in paragraph (k) above;**
- (l) for excluding from the application of this section services which are--
 - (i) excursions or tours; or
 - (ii) excursions or tours falling within a prescribed class.

(10) Regulations made by virtue of paragraph (ka) of subsection (9) above--

- (a) may create one or more criminal offences relating to the use of records or information in breach of the restrictions imposed by those regulations, but**
- (b) may not provide, in respect of any such offence, for a penalty greater than a fine not exceeding level 4 on the standard scale.**

6A Applications for registration etc where restrictions are in force <inserted, in respect of England and Wales, by clause 43>

- (1) This section applies in any case where--**
 - (a) any registration restrictions imposed under section 114(3A) of the Transport Act 2000 are in force in the case of a quality partnership scheme (“the scheme”);**
 - (b) an application for registration, or for variation or cancellation of registration, is made under section 6 of this Act to a traffic commissioner in respect of a local service in relation to which those restrictions have effect; and**
 - (c) the application is one which would fall to be accepted by the traffic commissioner, apart from this section.**
- (2) In any such case the traffic commissioner, before deciding whether or not to accept the application, must give to--**
 - (a) each relevant authority, and**
 - (b) each relevant operator,**

a notice complying with subsection (3) below.
- (3) The notice must--**
 - (a) identify the application and state that it has been made;**
 - (b) provide prescribed particulars of the application;**
 - (c) inform the persons to whom it is required to be sent of the right of each of them to make relevant representations to the traffic commissioner about the application.**
- (4) If no relevant representations are made, the application is to be accepted.**
- (5) If any relevant representations are made by a relevant authority or a relevant operator, the traffic commissioner must decide whether the effect of accepting the application would be detrimental to the provision of local services under the scheme.**
- (6) The traffic commissioner may decide that question only after--**
 - (a) considering those representations;**
 - (b) taking account of any other relevant applications and any relevant representations made in relation to those applications;**
 - (c) holding such inquiries under section 54 of the 1981 Act as the traffic commissioner may think fit; and**
 - (d) applying the registration criteria.**
- (7) If the traffic commissioner decides that the effect of accepting the application would not be detrimental to the provision of such services, the application is to be accepted.**
- (8) If subsection (7) above does not apply, the traffic commissioner may do any one or more of the following--**
 - (a) refuse to accept the application;**
 - (b) require the applicant to amend the application in such respects as the traffic commissioner may require before submitting it again;**
 - (c) if the applicant has not given a written undertaking under section 118(4) of the Transport Act 2000 in relation to the scheme, require the applicant to give such an undertaking before the application may be accepted.**

(9) An appeal against any decision of a traffic commissioner under this section may be made to the Transport Tribunal by any of the following persons--

- (a) the person who made the application;**
- (b) any relevant authority that made relevant representations against the application;**
- (c) any relevant operator who made relevant representations against the application.**

As respects appeals to the Transport Tribunal, see Schedule 4 to this Act.

(10) An appeal lies (in accordance with paragraph 14 of Schedule 4 to this Act) at the instance of any of the persons mentioned in the paragraphs of subsection (9) above from a decision of the Transport Tribunal on an appeal under that subsection.

(11) Regulations may be made for the purposes of carrying this section into effect; and the provision that may be made by any such regulations includes provision--

- (a) as to the procedure for giving notice under subsection (2) above;**
- (b) prescribing the particulars of the application that are to be provided in such a notice;**
- (c) as to the procedure for making relevant representations;**
- (d) as to the procedure to be followed in determining the application.**

(12) In this section--

“quality partnership scheme” means a scheme under section 114 of the Transport Act 2000;

“registration criteria” means the criteria specified in the scheme by virtue of section 114(3C) of the Transport Act 2000;

“relevant application” means any application under section 6 of this Act--

- (a) which is made in respect of a local service in relation to which the registration restrictions have effect, and**
- (b) which (whenever made) is awaiting the decision of the traffic commissioner;**

“relevant authority” means the authority, or any of the authorities, that made the scheme;

“relevant operator” means--

- (a) any operator of local services who has given an undertaking under section 118(4) of the Transport Act 2000 in respect of the scheme;**
- (b) any other operator of local services which might be affected if the application were to be accepted;**

“relevant representations” means representations that the effect of accepting the application would be detrimental to the provision of services under the scheme, having regard to the registration criteria.

6B Applications for registration where quality contracts scheme in force *<inserted, in relation to England and Wales, by clause 44>*

- (1) This section applies in any case where--
 - (a) a quality contracts scheme under section 124 of the Transport Act 2000 is in force;
 - (b) an operator proposes to provide a local service within the area to which the scheme relates;
 - (c) the proposed service is not excluded from the scheme by virtue of section 127(4) of the Transport Act 2000; and
 - (d) the operator does not propose to provide the service under a quality contract by virtue of the scheme.
- (2) In any such case, the operator may apply to a traffic commissioner for registration of the proposed service under section 6 of this Act, notwithstanding anything in section 129(1)(a) of the Transport Act 2000 (sections 6 to 9 of this Act not to apply).
- (3) The traffic commissioner must not accept the application except in accordance with the following provisions of this section.
- (4) On receipt of the application, the traffic commissioner must consult the authority or authorities who made the quality contracts scheme.
- (5) If, within the prescribed time, the traffic commissioner receives from the authority or authorities a clearance certificate in respect of the proposed service, the traffic commissioner must register the service under section 6 of this Act.
- (6) If the traffic commissioner does not receive such a certificate within that time, the application must be rejected.
- (7) In this section--
 - “clearance certificate” means a certificate that the provision of the proposed local service will not have an adverse effect on local services provided under quality contracts in the area to which the quality contracts scheme relates;
 - “prescribed” means prescribed in regulations;
 - “the relevant authority or authorities” means the authority or authorities--
 - (a) who last continued the quality contracts scheme in force under section 131A of the Transport Act 2000, or
 - (b) if the scheme has not been so continued, who made it.

7 Application of traffic regulation conditions to local services subject to registration under section 6 *<amended, in relation to England and Wales, by clause 45>*

- (1) If a traffic authority asks him to exercise his powers under this section in relation to a particular traffic problem **which has arisen or which the authority reasonably foresees is likely to arise**, the traffic commissioner for any traffic area may determine conditions ("traffic regulation conditions") which must be met in the provision of services in the area to which the conditions are expressed to apply.
- (2) In this section "service" means any local service to which section 6 of this Act applies.

(3) The area to which traffic regulation conditions may be expressed to apply is any part of the traffic area of the traffic commissioner determining them.

(4) No traffic commissioner shall determine traffic regulation conditions unless he is satisfied, after considering the traffic in the area in question, that such conditions ~~are required~~ **are, or are likely to be, required** in order to--

- (a) prevent danger to road users;
- (b) reduce severe traffic congestion; or
- (c) reduce or limit noise or air pollution.

(5) In considering what traffic regulation conditions to apply to a particular area a traffic commissioner shall have regard in particular to the interests of--

- (a) those who have registered under section 6 of this Act services which are or will be operated in the area;
- (b) those who are, or are likely to be, users of such services; and
- (c) persons who are elderly or disabled.

(6) The purposes for which traffic regulation conditions may be determined are the regulation of--

- (a) the routes of services;
- (b) the stopping places for services;
- (c) when vehicles used in providing services may stop at such stopping places and for how long they may do so; and
- (d) such other matters as may be prescribed.

(7) Subject to subsection (8) below, traffic regulation conditions shall apply--

- (a) to all services operated in the area to which the conditions are expressed to apply; or
- (b) to such class of service operated there as may be specified in the conditions.

(8) Where the traffic commissioner for any traffic area is satisfied that traffic regulation conditions applying generally to a particular part of his traffic area would be inappropriate as means of achieving the regulation of traffic which he considers is required there, he may determine traffic regulation conditions which apply only to the service or services specified in the conditions.

(9) Before determining any traffic regulation conditions, a traffic commissioner shall hold an inquiry if he has received (within the prescribed period) a request for an inquiry from--

- (a) the traffic authority which made the request under subsection (1) above;
- (b) any other traffic authority likely to be affected by traffic regulation conditions determined in response to that request; or
- (c) any person who has registered under section 6 of this Act a service which is or will be operated in the area in question;

and the request has not been withdrawn.

(10) Subsection (9) above shall not apply where the traffic commissioner is satisfied that the conditions should be determined without delay.

(11) Where, in reliance on subsection (10) above a traffic commissioner determines traffic regulation conditions without first holding an inquiry, he shall hold one as soon as is reasonably practicable if any person mentioned in subsection (9)(a) or (c) above or any other traffic authority affected by the conditions has, before the end of the prescribed period, asked him to do so.

(12) Before asking a traffic commissioner to exercise his powers under this section in relation to a road for which the Secretary of State is the highway or roads authority, a traffic authority shall obtain leave of the Secretary of State; but leave given under this subsection shall not be taken to indicate the Secretary of State's approval of any conditions determined by the traffic commissioner in response to the request.

(13) Traffic regulation conditions may make different provision with respect to the operation of any service to which they apply during different periods of the year, on different days of the week, or at different times during any period of 24 hours.

(14) A traffic commissioner may vary or revoke any traffic regulation conditions determined by him on being requested to do so by--

- (a) any traffic authority; or
- (b) the operator of any service affected by the conditions.

(15) In this section "traffic authority" means--

- (a) in relation to England and Wales, the council of any metropolitan district or non-metropolitan county; and
- (b) in relation to Scotland, the council of any local government area.

8 Enforcement of traffic regulation conditions, etc

(1) Where traffic regulation conditions have been determined under section 7 of this Act, it shall be the duty of the traffic commissioner by whom any relevant licence or permit has been granted to attach the conditions to that licence or, as the case may be, to that permit.

(2) In this section--

"licence" means a PSV operator's licence;

"permit" means a permit under section 22 of this Act;

and a licence or permit is relevant for the purposes of this section if a local service registered under section 6 of this Act by the holder of the licence or permit is affected by the conditions.

(3) Where the traffic commissioner who determined the traffic regulation conditions and the traffic commissioner who granted the relevant licence or permit are different, it shall be the duty of the commissioner determining the conditions to send to the other commissioner--

- (a) details of the conditions; and
- (b) the name of the person registering the particulars of the local service.

(4) If traffic regulation conditions which have been attached to a licence or permit under this section are subsequently varied or revoked, it shall be the duty of the traffic commissioner or commissioners concerned to secure that the conditions as so attached are correspondingly varied or (as the case may be) removed.

(5) Traffic regulation conditions shall be of no effect to the extent to which they are incompatible with any provision made by or under any enactment prohibiting or restricting the use of any road by traffic.

(6) Where the operator of a local service is unable both to operate the service in accordance with the particulars of the service registered under section 6 of this Act and to comply with--

- (a) traffic regulation conditions; or
- (b) any other provision of a kind mentioned in subsection (5) above;

any failure to operate the service in accordance with those particulars which occurs at any time before the expiry of the prescribed period beginning with the coming into force of the conditions or provision shall be disregarded to the extent to which it is attributable to his having to comply with the conditions or provision.

9 Appeals against traffic regulation conditions <amended, in relation to England and Wales, by clause 46>

(1) Any person to whom subsection (2) below applies may appeal to ~~the Secretary of State~~ **the Transport Tribunal** against--

- (a) the determination, variation or revocation of any traffic regulation conditions under section 7 of this Act; or
- (b) the refusal by a traffic commissioner to comply with a request duly made under that section to determine, vary or revoke any such conditions.

(2) The persons to whom this subsection applies are--

- (a) in relation to any determination, variation or revocation of conditions--
 - (i) any person who has registered under section 6 of this Act a local service which is, or is likely to be, affected by them; and
 - (ii) any traffic authority aggrieved by the decision in question; and
- (b) in relation to any refusal to comply with a request, the person making the request.

~~(3) An appeal under this section must be made within the prescribed time and in the prescribed manner, and provision may be made by regulations as to the procedure to be followed in connection with such appeals.~~

~~(4) On the determination of an appeal under this section, the Secretary of State may confirm, vary or reverse the decision appealed against and may give such directions as he thinks fit to the traffic commissioner for giving effect to his decision.~~

~~(5) An appeal lies at the instance of any of the persons mentioned in subsection (6) below on any point of law arising from a decision of the Secretary of State on an appeal under this section--~~

- ~~(a) to the High Court, where the area of the traffic commissioner concerned is in England or Wales; and~~
- ~~(b) to the Court of Session, where it is in Scotland.~~

(5) An appeal lies (in accordance with paragraph 14 of Schedule 4 to this Act) at the instance of any of the persons mentioned in subsection (6) below from a decision of the Transport Tribunal on an appeal under this section.

(6) The persons who may appeal against any such decision of ~~the Secretary of State~~ **the Transport Tribunal** are--

- (a) the person who appealed to ~~him~~ **the tribunal**;
- (b) any person who had a right to appeal to ~~him~~ **the tribunal** against the relevant decision of the traffic commissioner but did not exercise that right;
- (c) any traffic authority aggrieved by the decision; and
- (d) the traffic commissioner whose decision was appealed against.

~~(7) If on an appeal under subsection (5) above the High Court or Court of Session is of opinion that the decision appealed against was erroneous in point of law, it shall remit the matter to the Secretary of State with the opinion of the court for re-hearing and determination by him.~~

~~(8) No appeal to the Court of Appeal may be brought from a decision of the High Court under this section except with the leave of the High Court or Court of Appeal.~~

~~(9) An appeal shall lie, with the leave of the Court of Session or the Supreme Court, from any decision of the Court of Session under this section; and such leave may be given on such terms as to costs, expenses or otherwise as the Court of Session or the Supreme Court determine.~~

(10) In this section "traffic authority" has the same meaning as in section 7 of this Act.

Taxis and hire cars

10 Immediate hiring of taxis at separate fares <extends to England and Wales only>

(1) In the circumstances mentioned in subsection (2) below, a licensed taxi may be hired for use for the carriage of passengers for hire or reward at separate fares without thereby--

- (a) becoming a public service vehicle for the purposes of the 1981 Act or any related enactment; or
- (b) ceasing (otherwise than by virtue of any provision made under section 13 of this Act) to be subject to the taxi code.

(2) The circumstances are that--

- (a) the taxi is hired in an area where a scheme made under this section is in operation;
- (b) the taxi is licensed by the licensing authority for that area; and
- (c) the hiring falls within the terms of the scheme.

(3) In this section "licensing authority" means--

- (a) in relation to the London taxi area, Transport for London or the holder for the time being of any office designated by Transport for London for the purposes of this section; and
- (b) in relation to any other area in England and Wales, the authority having responsibility for licensing taxis in that area.

(4) For the purposes of this section, a licensing authority may make a scheme for their area and shall make such a scheme if the holders of at least ten per cent. of the current taxi licences issued by the authority request the authority in writing to do so.

- (5) Any scheme made under this section shall--
- (a) designate the places in the area from which taxis may be hired under the scheme ("authorised places");
 - (b) specify the requirements to be met for the purposes of the scheme in relation to the hiring of taxis at separate fares; and
 - (c)
 - (i) include such provision, or provision of such description, as may be prescribed for the purposes of this sub-paragraph;
 - (ii) not include provision of any such description as may be prescribed for the purposes of this sub-paragraph.
- (6) Subject to subsection (5) above, any scheme made under this section may, in particular, make provision with respect to--
- (a) fares;
 - (b) the display of any document, plate, mark or sign for indicating an authorised place or that a taxi standing at an authorised place is available for the carriage of passengers at separate fares;
 - (c) the manner in which arrangements are to be made for the carriage of passengers on any such hiring as is mentioned in subsection (1) above; and
 - (d) the conditions to apply to the use of a taxi on any such hiring.
- (7) A licensing authority may, subject to subsection (5) above, vary any scheme made by them under this section.
- (8) Any scheme under this section, and any variation of such a scheme, shall be made in accordance with the prescribed procedure.
- (9) For the purposes of this section--
- (a) the hiring of a taxi falls within the terms of a scheme if--
 - (i) it is hired from an authorised place; and
 - (ii) the hiring meets the requirements specified by the licensing authority as those to be met for the purposes of the scheme; and
 - (b) a taxi is hired from an authorised place if it is standing at that place when it is hired and the persons hiring it are all present there.

11 Advance booking of taxis and hire cars at separate fares <extends to England and Wales only>

- (1) Where the conditions mentioned in subsection (2) below are met, a licensed taxi or licensed hire car may be used for the carriage of passengers for hire or reward at separate fares without thereby--
- (a) becoming a public service vehicle for the purposes of the 1981 Act or any related enactment; or
 - (b) ceasing (otherwise than by virtue of any provision made under section 13 of this Act) to be subject to the taxi code or (as the case may be) the hire car code.

(2) The conditions are that--

- (a) all the passengers carried on the occasion in question booked their journeys in advance; and
- (b) each of them consented, when booking his journey, to sharing the use of the vehicle on that occasion with others on the basis that a separate fare would be payable by each passenger for his own journey on that occasion.

12 Use of taxis or hire cars in providing local services < amended, in relation to England, Scotland and Wales, by clause 48>

(1) Where the holder of a taxi licence **or a private hire vehicle licence--**

- (a) applies to the appropriate traffic commissioner for a restricted PSV operator's licence to be granted to him under Part II of the 1981 Act; and
- (b) states in his application that he proposes to use one or more licensed taxis **or licensed hire cars** to provide a local service;

section 14 of the 1981 Act (conditions to be met before grant of PSV operator's licence) shall not apply and the commissioner shall grant the application.

(2) In this section "special licence" means a restricted PSV operator's licence granted by virtue of this section.

<Subsection (3) already repealed>

(4) Without prejudice to his powers to attach other conditions under section 16 of the 1981 Act, any traffic commissioner granting a special licence shall attach to it, under that section, the conditions mentioned in subsection (5) below.

(5) The conditions are--

- (a) that every vehicle used under the licence shall be one for which the holder of the licence has a taxi licence **or a private hire vehicle licence**; and
- (b) that no vehicle shall be used under the licence otherwise than for the purpose of providing a local service with one or more stopping places within the area of the authority which granted **the relevant licence for that vehicle** ~~the taxi licence of the vehicle in question~~.

(6) In subsection (5)(b) above "local service" does not include an excursion or tour.

(7) The maximum number of vehicles which the holder of a special licence may at any one time use under the licence shall be the number of vehicles for which (for the time being) he holds ~~taxi licences~~ **relevant licences**; and a condition to that effect shall be attached to every special licence under section 16(1) of the 1981 Act.

(8) Section 1(2) of the 1981 Act (vehicle used as public service vehicle to be treated as such until that use is permanently discontinued) shall not apply to any use of a licensed taxi **or a licensed hire car** for the provision of a local service under a special licence.

(9) At any time when a licensed taxi **or a licensed hire car** is being so used it shall carry such documents, plates and marks, in such manner, as may be prescribed.

(10) ~~Such provisions in the taxi code as may be prescribed shall apply in relation to a licensed taxi at any time when it is being so used;~~ **At any time when a licensed taxi or a licensed hire car is being so used the prescribed provisions of the taxi code or, as the case may be, the hire car code shall apply in relation to it;** and any such provision may be so applied subject to such modifications as may be prescribed.

(10A) In subsections (9) and (10) "prescribed" means prescribed by the appropriate authority.

(11) For the purposes of section 12(3) of the 1981 Act (which provides that where two or more PSV operators' licences are held they must be granted by traffic commissioners for different traffic areas), special licences shall be disregarded.

(12) A person may hold more than one special licence but shall not at the same time hold more than one such licence granted by the traffic commissioner for a particular traffic area.

(13) The following provisions shall not apply in relation to special licences or (as the case may be) the use of vehicles under such licences--

- (a) sections 16(1A) and (2), 17(3)(d), 18 to 20 and 26 of the 1981 Act; and
- (b) section 26(5) and (6) of this Act;

and for the purposes of section 12 of that Act this section shall be treated as if it were in Part II of that Act.

13 Provisions supplementary to sections 10 to 12 < amended, in relation to England, Scotland and Wales, by clause 49>

(1) ~~The Secretary of State~~ **The appropriate authority** may by order make such modifications of the taxi code and the hire car code as ~~he~~ **it** sees fit for the purpose of supplementing the provision of sections 10 to 12 of this Act.

(2) Any order made under subsection (1) above may, in particular, modify any provision--

- (a) relating to fares payable by the hirer of a vehicle;
- (b) requiring the driver of any vehicle to accept any hiring, or to drive at the direction of a hirer, or (as the case may be) of a prospective hirer, to any place within or not exceeding any specified distance or for any period of time not exceeding a specified period from the time of hiring;
- (c) making the carriage of additional passengers in any vehicle which is currently subject to a hiring dependent on the consent of the hirer.

(3) In this section, and in sections 10 to 12 of this Act--

"the appropriate authority" means--

(a) in relation to--

(i) a taxi licensed under section 37 of the Town Police Clauses Act 1847 or any similar enactment which applies outside the London taxi area,

(ii) a licensed hire car licensed under section 48 of the Local Government (Miscellaneous Provisions) Act 1976, or

(iii) a taxi or private hire car licensed under section 10 of the Civic Government (Scotland) Act 1982,

the Secretary of State;

(b) in relation to--

(i) a taxi licensed under section 6 of the Metropolitan Public Carriage Act 1869, or

(ii) a licensed hire car licensed under section 7 of the Private Hire Vehicles (London) Act 1998,

Transport for London;

"licensed taxi" means--

- (a) in England and Wales, a vehicle licensed under--
 - (i) section 37 of the Town Police Clauses Act 1847; or
 - (ii) section 6 of the Metropolitan Public Carriage Act 1869;or under any similar enactment; and
- (b) in Scotland, a taxi licensed under section 10 of the Civic Government (Scotland) Act 1982;

"London taxi area" means the area to which the Metropolitan Public Carriage Act 1869 applies;

~~"licensed hire car" means a vehicle which is licensed under section 48 of the Local Government (Miscellaneous Provisions) Act 1976 or section 7 of the Private Hire Vehicles (London) Act 1998;~~

"licensed hire car" means--

- (a) in England and Wales—**
 - (i) for the purposes of section 11 of this Act, a vehicle licensed under section 48 of the Local Government (Miscellaneous Provisions) Act 1976 or section 7 of the Private Hire Vehicles (London) Act 1998,**
 - (ii) for the purposes of section 12 of this Act, a vehicle licensed under section 48 of the Local Government (Miscellaneous Provisions) Act 1976;**
- (b) in Scotland, a private hire car licensed under section 10 of the Civic Government (Scotland) Act 1982;**

"hire car code", in relation to a licensed hire car used as mentioned in section 11 **or 12** of this Act, means those provisions made by or under any enactment which would apply if it were hired by a single passenger for his exclusive use;

"related enactment", in relation to the 1981 Act, means any statutory provision (whenever passed or made) relating to public service vehicles in which "public service vehicle" is defined directly or indirectly by reference to the provisions of the 1981 Act;

"taxi code", in relation to any licensed taxi used as mentioned in section 10, 11 or 12 of this Act, means--

- (a) in England and Wales, those provisions made by or under any enactment which would apply if the vehicle were plying for hire and were hired by a single passenger for his exclusive use; and
- (b) in Scotland, the provisions of sections 10 to 23 of the Civic Government (Scotland) Act 1982, and Part I of that Act as it applies to these provisions; and

"taxi licence" means a licence under section 6 of the Metropolitan Public Carriage Act 1869, section 7 of the Town Police Clauses Act 1847 or any similar enactment, or a taxi licence under section 10 of the Civic Government (Scotland) Act 1982.

"relevant licence" means--

- (a) in relation to a licensed taxi, a taxi licence, and**
- (b) in relation to a licensed hire car, a private hire vehicle licence;**

"private hire vehicle licence" means—

- (a) in England and Wales, a licence under section 48 of the Local Government (Miscellaneous Provisions) Act 1976;**
- (b) in Scotland, a private hire car licence under section 10 of the Civic Government (Scotland) Act 1982.**

(4) Any order made under subsection (1) above may contain such supplementary, incidental, consequential and transitional provisions (including provisions modifying any enactment contained in any Act other than this Act) as appear to the Secretary of State to be necessary or expedient in consequence of any modification of the taxi code or the private hire car code made by the order.

13A Application of sections 10 to 13 to London <inserted, in relation to England and Wales, by clause 49>

(1) Transport for London may by order provide that section 12 of this Act is to apply to vehicles licensed under section 7 of the Private Hire Vehicles (London) Act 1998 as it applies to vehicles licensed under section 48 of the Local Government (Miscellaneous Provisions) Act 1976.

(2) An order under subsection (1) of this section may amend the definitions of "licensed hire car" and "private hire vehicle licence" in section 13 of this Act accordingly.

(3) Transport for London must consult such representative organisations as it thinks fit before making--

- (a) regulations under section 12(9) or (10) of this Act;**
- (b) an order under section 13(1) of this Act or subsection (1) of this section.**

(4) Any power of Transport for London to make--

- (a) regulations under section 12(9) or (10) of this Act, or**
- (b) an order under section 13(1) of this Act,**

includes a power to vary or revoke any previous such regulations or order (as the case may be).

(5) Subsection (4) applies notwithstanding that the previous regulations were made, or the previous order was made, by the Secretary of State by statutory instrument.

(6) Transport for London must print and publish--

- (a) any regulations made by it under section 12(9) or (10) of this Act;**
- (b) any order made by it under section 13(1) of this Act or subsection (1) of this section.**

(7) Transport for London may charge a fee for the sale of copies of any regulations, or any order, printed under subsection (6).

<Sections 14 to 18 omitted as they are unaffected by the Local Transport Bill>

19 Permits in relation to use of ~~buses~~ public service vehicles by educational and other bodies <as amended, in relation to England, Scotland and Wales, by clause 52>

(1) In this section and sections 20 and 21 of this Act--

"bus" means a vehicle which is adapted to carry more than eight passengers;

"large bus" means a vehicle which is adapted to carry more than sixteen passengers;

"small bus" means a vehicle which is adapted to carry more than eight but not more than sixteen passengers; and

"permit" means a permit granted under this section in relation to the use of ~~a bus~~ **a public service vehicle** for carrying passengers for hire or reward.

(2) The requirements that must be met in relation to the use of ~~a bus~~ **a public service vehicle** under a permit for the exemption under ~~section 18(a)~~ **section 18(1)(a)** of this Act to apply are that ~~the bus~~ **the vehicle--**

(a) is being used by a body to whom a permit has been granted under this section;

(b) is not being used for the carriage of members of the general public nor with a view to profit nor incidentally to an activity which is itself carried on with a view to profit;

(c) is being used in every respect in accordance with any conditions attached to the permit; and

(d) is not being used in contravention of any provision of regulations made under section 21 of this Act.

(3) A permit in relation to the use of ~~a small bus~~ **a public service vehicle other than a large bus** may be granted by a body designated by an order under subsection (7) below either to itself or to any other body to whom, in accordance with the order, it is entitled to grant a permit.

(4) A permit in relation to the use of ~~a small bus~~ **a public service vehicle other than a large bus** may be granted by a traffic commissioner to any body appearing to him to be eligible in accordance with subsection (8) below and to be carrying on in his area an activity which makes it so eligible.

(5) A permit in relation to the use of a large bus may be granted by a traffic commissioner to any body which assists and co-ordinates the activities of bodies within his area which appear to him to be concerned with--

(a) education;

(b) religion;

(c) social welfare; or

(d) other activities of benefit to the community.

(6) A traffic commissioner shall not grant a permit in relation to the use of a large bus unless satisfied that there will be adequate facilities or arrangements for maintaining any bus used under the permit in a fit and serviceable condition.

(7) The Secretary of State may by order designate for the purpose of this section bodies appearing to him to be eligible in accordance with subsection (8) below and, with respect to any body designated by it, any such order--

(a) shall specify the classes of body to whom the designated body may grant permits;

(b) may impose restrictions with respect to the grant of permits by the designated body and, in particular, may provide that no permit may be granted, either generally or in such cases as may be specified in the order, unless there are attached to the permit such conditions as may be so specified; and

(c) may require the body to make returns **and keep records** with regard to the permits granted, **varied or revoked** by it.

(8) A body is eligible in accordance with this subsection if it is concerned with--

- (a) education;
- (b) religion;
- (c) social welfare;
- (d) recreation; or
- (e) other activities of benefit to the community.

(9) A body may hold more than one permit but may not use more than one **bus vehicle** at any one time under the same permit.

20 Further provision with respect to permits under section 19 <amended, in relation to England, Scotland and Wales, by clause 53>

(1) Subject to subsection (2) below, a permit shall specify the body to whom it is granted.

(2) A permit may be granted to a named individual on behalf of a body if, having regard to the nature of that body, it appears to the traffic commissioner or body granting the permit appropriate to do so.

(3) Where a permit is granted to a named individual on behalf of a body, it shall be treated for the purposes of this section and section 19 of this Act as granted to that body.

(4) In addition to any conditions attached to such a permit by virtue of section 19(7)(b) of this Act, the traffic commissioner or other body granting such a permit may attach to it such conditions as he or that body considers appropriate, including, in particular, conditions--

- (a) limiting the passengers who may be carried in any **bus vehicle** used under the permit to persons falling within such classes as may be specified in the permit; and
- (b) with respect to such other matters as may be prescribed.

(5) Subject to subsection (6) below, a permit may be varied or revoked--

- (a) by the traffic commissioner or body who granted it; and
- (b) in the case of a permit granted by a body designated under section 19(7) of this Act, after consultation with that body, by the traffic commissioner for any traffic area in which any **bus vehicle** has been used under the permit.

(6) A permit may not be varied so as to substitute another body for the body to whom it was granted.

- (7) A permit shall remain in force until--
- (a) it is revoked under subsection (5) above; or
 - (b) in the case of a permit granted by a body designated under section 19(7) of this Act, that body ceases to be so designated.

21 Permits under section 19: regulations <amended, in relation to England, Scotland and Wales, by clause 53>

- (1) Regulations may prescribe--
- (a) the conditions to be fulfilled by any person driving ~~a bus~~ **a public service vehicle** while it is being used under a permit;
 - (b) the conditions as to fitness which are to be fulfilled by any small bus used under a permit;
 - (c) the form of permits; and
 - (d) the documents, plates and marks to be carried by ~~any bus~~ **any vehicle** while it is being used under a permit and the manner and position in which they are to be carried.
- (2) Where regulations are made by virtue of subsection (1)(b) above, section 6 of the 1981 Act (certificate of initial fitness for public service vehicles) shall not apply in relation to any small bus subject to the regulations.
- (3) Regulations under this section may contain such transitional provisions as the Secretary of State thinks fit.
- (4) See also section 23A of this Act (power to limit permits under section 19 or 22 to 5 years).**

22 Community bus permits <amended, in relation to England, Scotland and Wales, by clause 54>

- (1) In this section and section 23 of this Act--
- "community bus service" means a local service provided--
- (a) by a body concerned for the social and welfare needs of one or more communities;
 - (b) without a view to profit, either on the part of that body or of anyone else; and
 - (c) by means of a vehicle adapted to carry more than eight ~~but not more than sixteen~~ passengers; and
- "community bus permit" means a permit granted under this section in relation to the use of a public service vehicle--
- (a) in providing a community bus service; or
 - (b) in providing a community bus service and (other than in the course of a local service) carrying passengers for hire or reward where the carriage of those passengers will directly assist the provision of the community bus service by providing financial support for it.
- (2) A community bus permit may be granted by the traffic commissioner for the area in which the operating centre for any vehicle used under the permit will be.

(3) A traffic commissioner shall not grant a community bus permit unless he is satisfied that there will be adequate facilities or arrangements for maintaining in a fit and serviceable condition any vehicle used under the permit.

(4) A body may hold more than one community bus permit but may not use more than one vehicle at any one time under the same permit.

23 Further provision with respect to community bus permits <amended, in relation to England, Scotland and Wales, by clause 54>

(1) The requirements mentioned in subsection (2) below shall be conditions of every community bus permit and shall apply in relation to any use of a vehicle under such a permit.

(2) Those requirements are that--

~~(a) the driver receives no payment for driving except--~~

~~(i) reimbursement of any reasonable expenses incurred by him in making himself available to drive; and~~

~~(ii) an amount representing any earnings lost as a result of making himself available to drive in exceptional circumstances;~~

(b) the driver either holds a passenger-carrying vehicle driver's licence or PCV Community licence (within the meaning of Part IV of the Road Traffic Act 1988) or fulfils any conditions prescribed in relation to a person driving a vehicle which is being used under a community bus permit; and

(c) any vehicle used under the permit fulfils any prescribed conditions.

(3) A traffic commissioner may at any time attach to a community bus permit granted by him such conditions (or additional conditions) of a prescribed description as he thinks fit for restricting or regulating the use of any vehicle under the permit.

(4) The traffic commissioner by whom a community bus permit was granted may at any time while the permit is in force vary or remove any condition attached to it under subsection (3) above.

(5) Subject to section 68(3) of the 1981 Act (as applied by section 127(4) of this Act), if a condition attached to a community bus permit is contravened, the holder of the permit shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(6) The traffic commissioner by whom a community bus permit was granted may at any time revoke the permit on the ground--

(a) that he is no longer satisfied with respect to the adequacy of facilities or arrangements for maintaining in a fit and serviceable condition any vehicle used under the permit;

(b) that there has been a contravention of any condition attached to the permit; or

(c) that a prohibition under section 9 of the 1981 Act (power to prohibit driving of unfit public service vehicles) has been imposed with respect to a vehicle used under the permit which has its operating centre in his area.

(7) Where regulations are made by virtue of subsection (2)(c) above, section 6 of the 1981 Act (certificate of initial fitness for public service vehicles) shall not apply in relation to any vehicle subject to the regulations.

- (8) Regulations may prescribe--
- (a) the form of community bus permits; and
 - (b) the documents, plates and marks to be carried by any vehicle while it is being used under a community bus permit and the manner and position in which they are to be carried.
- (9) See also section 23A of this Act (power to limit permits under section 19 or 22 to 5 years).**

23A Power to limit permits under section 19 or 22 to 5 years <inserted, in relation to England, Scotland and Wales, by clause 55>

- (1) Regulations may provide that any permit granted under section 19 or 22 of this Act on or after a date specified in the regulations is to be for such period not exceeding 5 years as may be identified in the permit by the person granting it.**
- (2) Nothing in subsection (1) above or any regulations made by virtue of that subsection prevents the grant of subsequent permits under section 19 or 22 of this Act to any person for further such periods.**

<Sections 24 and 25 already repealed>

26 Conditions attached to PSV operators' licence <as it applies in England and Wales> <as amended by clauses 39 and 57, and a minor repeal in Schedule 7>

- (1) ~~Where~~ **Subsection (1A) below applies in any case where** it appears to a traffic commissioner, in relation to a person ("the operator") to whom he has granted or is proposing to grant a PSV operator's licence, that--
- (a) the operator has failed to operate a local service registered under section 6 of this Act; or
 - (b) the operator has operated a local service in contravention of that section or section 118(4) or 129(1)(b) of the Transport Act 2000 or section 8(4) or section 22(1)(b) of the Transport (Scotland) Act 2001; ~~or~~
 - (bza) the operator has failed to comply with a requirement imposed by virtue of section 134B(5)(c) of the Transport Act 2000; or**
 - (ba) the operator has failed to comply with section 138 or 140(3) of the Transport Act 2000; or
 - (bb) the operator has failed to comply with section 32(1) or 34(3) of the Transport (Scotland) Act 2001;
 - (c) the arrangements for maintaining the vehicles used under the licence in a fit and serviceable condition are not adequate for the use of those vehicles in providing the local service or services in question; or
 - (d) the operator, or any employee or agent of his, has--
 - (i) intentionally interfered with the operation of a local service provided by another operator;
 - (ii) operated a local service in a manner dangerous to the public; or
 - (iii) been guilty of any other serious misconduct (whether or not constituting a criminal offence) in relation to the operation of a local service; or

- (e) a condition attached under section 8 of this Act to the operator's licence has been contravened.

~~he may (on granting the licence or at any later time) attach to it either a condition prohibiting the operator from using vehicles under the licence to provide any local service of a description specified in the condition or one prohibiting him from so using vehicles to provide local services of any description.~~

(1A) The traffic commissioner may (on granting the licence or at any other time) attach, or direct a traffic commissioner for another traffic area to attach, a condition falling within subsection (1B) below to any one or more of the following PSV operator's licences (wherever granted)--

- (a) the licence mentioned in subsection (1) above;**
- (b) any other licence held by the operator;**
- (c) where the operator is an undertaking, any licence held by a group undertaking in relation to that undertaking (see subsection (7) below).**

(1B) The conditions are--

- (a) a condition prohibiting the holder of the licence from using vehicles under the licence to provide any local service of a description specified in the condition;**
- (b) a condition prohibiting the holder of the licence from so using vehicles to provide local services of any description.**

(1C) A condition under subsection (1A) may be attached--

- (a) indefinitely, or**
- (b) for a period of time specified by the traffic commissioner (which may commence immediately or on a date so specified).**

(2) The commissioner may attach **(or direct another commissioner to attach)** a condition to a PSV operator's licence under ~~subsection (1)~~ **subsection (1A)** above, by reference to circumstances falling within paragraph (a) or (b) of ~~that subsection~~ **subsection (1) above** if, but only if, it appears to him that the operator did not have a reasonable excuse for his conduct or that it is appropriate to attach the condition in view of--

- (a) the danger to the public involved in the operator's conduct; or
- (b) the frequency of conduct of the kind in question on the part of the operator.

(2A) Where a direction is given under subsection (1A) above to a traffic commissioner for another area, that traffic commissioner must either--

- (a) attach the condition to the licence, or**
- (b) if he considers that there is good reason not to attach the condition to the licence, inform the traffic commissioner who gave the direction of that fact and of the reason.**

(3) Where the effect of a condition attached to a PSV operator's licence under ~~subsection (1)~~ **subsection (1A)** above is that the operator of a local service registered under section 6 of this Act is prohibited from using vehicles under the licence to provide that service, the traffic commissioner attaching the condition may--

- (a) cancel the registration; or
- (b) where the service is registered with another traffic commissioner, direct that it be cancelled.

(4) Where a direction is given under subsection (3)(b) above, it shall be the duty of the traffic commissioner with whom the service is registered to cancel the registration.

- (5) ~~Where Subsection (5A) below applies in any case where~~ it appears to the commissioner that--
- (a) vehicles used under the licence (or under any PSV operator's licence previously held by the operator) have not been maintained in a fit and serviceable condition; or
 - (b) the operator has been involved in arrangements with any other operator for the use of each other's vehicles with a view to hindering enforcement of any requirements of the law relating to the operation of those vehicles;

~~he may (on granting the licence or at any later time) attach to the licence a condition restricting the vehicles which the operator may use under the licence to vehicles specified in the condition.~~

(5A) The traffic commissioner may (on granting the licence or at any other time) attach, or direct a traffic commissioner for another traffic area to attach, to any one or more of the licences mentioned in subsection (5B) below a condition restricting the vehicles which the operators may use under the licence to vehicles specified in the condition.

(5B) The licences are the following PSV operator's licences (wherever granted)--

- (a) the licence mentioned in subsection (5) above;**
- (b) any other licence held by the operator;**
- (c) where the operator is an undertaking, any licence held by a group undertaking in relation to that undertaking (see subsection (7) below)).**

(5C) Where a direction is given under subsection (5A) above to a traffic commissioner for another area, that traffic commissioner must either --

- (a) attach the condition to the licence, or**
- (b) if he considers that there is a good reason not to attach the condition to the licence, inform the traffic commissioner who gave the direction of that fact and of the reason.**

(6) A condition attached to a licence under ~~subsection (5)~~ **subsection (5A)** above shall--

- (a) apply only to vehicles which have their operating centre in the traffic area for which the commissioner **who attached that condition** acts; and
- (b) be in addition to (and not be taken as prejudicing in any way) any conditions attached to the licence under section 16 of the 1981 Act as to the maximum number of vehicles which the operator may at any one time use under the licence.

(7) In this section "undertaking" and "group undertaking" have the same meaning as in the Companies Acts (see section 1161 of the Companies Act 2006).

27 Supplementary provisions with respect to conditions attached to PSV operator's licence under section 26

- (1) Before attaching any condition to a PSV operator's licence under section 26 of this Act, a traffic commissioner shall hold an inquiry if he has, within the prescribed period, received a request for an inquiry from the holder of, or (as the case may be) applicant for, the licence.
- (2) Subsection (1) above shall not apply where the traffic commissioner is satisfied that the condition should be attached without delay.
- (3) Where, in reliance on subsection (2) above, a traffic commissioner attaches any such condition to a PSV operator's licence without first holding an inquiry, he shall hold one as soon as is reasonably practicable if the holder of the licence has, before the end of such period as may be prescribed, asked him to do so.

(4) For the purposes of section 16(5) of the 1981 Act (traffic commissioner's power to vary or remove conditions attached under section 16(3) of that Act to a PSV operator's licence), a condition attached under section 26 of this Act shall be treated as attached under section 16(3) of that Act.

(5) Nothing in section 26 shall be taken as prejudicing the generality of the power under that Act to prescribe descriptions of conditions for the purposes of section 16(3) of that Act.

27A Additional powers where service not operated as registered <inserted, in relation to England and Wales, by clause 58>

(1) This section applies in any case where it appears to a traffic commissioner that a person (“the operator”)--

(a) has, or may have, failed to operate a local service registered under section 6 of this Act; or

(b) has, or may have, failed to operate such a service in accordance with the particulars registered under that section.

(2) The traffic commissioner may direct a local traffic authority to provide him, within a specified period, with specified information connected with any aspect of the performance of their duties under section 16 or 17 of the Traffic Management Act 2004 (the network management duty, and arrangements for network management).

This subsection is supplemented by provisions in section 27B of this Act.

(3) If the traffic commissioner holds an inquiry in connection with deciding whether--

(a) to attach a condition under section 26 of this Act, or

(b) to make an order under section 155 of the Transport Act 2000,

subsections (2) and (3) of section 250 of the Local Government Act 1972 (attendance of witnesses etc) apply to the inquiry as they apply to an inquiry under that section.

(4) If the traffic commissioner identifies any remedial measures (see subsection (5)) which, in the traffic commissioner’s opinion, could be taken--

(a) by the operator, or

(b) by a local traffic authority,

the traffic commissioner may prepare a report recommending the implementation of those measures.

(5) In this section "remedial measures" means measures which, in the opinion of the traffic commissioner, would enable or facilitate the operation of the service in accordance with the particulars registered under section 6 of this Act.

(6) A traffic commissioner who prepares a report under subsection (4) above--

(a) must send a copy of the report to the operator and, if any of the recommended remedial measures are for implementation by a local traffic authority, to that authority;

(b) must, if the implementation of any of the measures in the report would affect the operation of bus services in an integrated transport area, send a copy of the report to the Integrated Transport Authority for that area;

(c) may send a copy of the report to any one or more of the persons in subsection (7) below;

(d) may publish the report.

- (7) The persons are--
- (a) the appropriate national authority,
 - (b) any local traffic authority or **Integrated Transport Authority** which the traffic commissioner considers appropriate,
- and any other persons whom the traffic commissioner considers appropriate.
- (8) See subsection (6) of section 27B of this Act for the meaning of some of the expressions used in this section.

27B Provisions supplementing section 27A <inserted in relation to England and Wales by clause 58>

- (1) This section supplements section 27A of this Act.
- (2) In this section “direction” means a direction under subsection (2) of that section.
- (3) The information that may be specified in a direction must be information which the local traffic authority have in their possession or can reasonably be expected to acquire.
- (4) The information that may be specified in a direction includes information relating to--
- (a) the management of a local traffic authority's road network; or
 - (b) the use of their road network by different kinds of traffic or the effects of that use.
- (5) A direction may be given--
- (a) to one or more local traffic authorities; or
 - (b) to local traffic authorities of a description specified in the direction.
- (6) In section 27A of this Act and in this section the following expressions have the same meaning as in Part 2 of the Traffic Management Act 2004 (network management by local traffic authorities)--
- appropriate national authority,
 - local traffic authority,
 - road network,
 - traffic,
- except that “local traffic authority” does not include Transport for London, a London borough council or the Common Council of the City of London.

<Remainder of Part I, and Parts II and III, omitted as they are unaffected by the Local Transport Bill>

Part IV

Local Passenger Transport Services

Passenger Transport Areas

<Sections 57 to 59 omitted as they are unaffected by the Local Transport Bill, other than as a consequence of the name change for Passenger Transport Authorities and passenger transport areas in England and Wales>

60 Exclusion of public sector co-operation requirements and bus operating powers <amended, in relation to England and Wales, by clause 61>

(1) This section applies where in the case of any passenger transport area a company (referred to below in this Part of this Act, in relation to that area, as "the initial company") has been formed by the Passenger Transport Executive for that area ("the Executive") in pursuance of section 59 of this Act.

~~(2) At any time after the Secretary of State has given to the Executive a direction under subsection (3) of that section the Secretary of State may by order provide that the Executive shall cease, on a day specified in the order, to be under the duty imposed by section 24(2) of the 1968 Act (duty to co-operate with the National Bus Company and the Scottish Transport Group and to enter into agreements for that purpose).~~

~~(3) Where an order is made under subsection (2) above, any duty of the National Bus Company and the Scottish Transport Group under section 24(2) of the 1968 Act to co-operate with the Executive (or with each other) shall cease on the day specified in the order to apply in relation to the Executive's area.~~

~~(4) Any order under subsection (2) above may include provision for the termination of any agreements made under section 24(2) to which the Executive are a party, on such terms and such dates as may be specified in relation to those agreements in the order (and different terms and dates may be so specified in relation to different agreements).~~

(5) At any time after the transfer required under section 59(8) of shares in or other securities of the initial company to the Passenger Transport Authority for the Executive's area has taken place the Secretary of State may by order provide that the Executive shall cease, on a day specified in the order, to have the powers under section 10(1)(i) and (viii) of the 1968 Act (powers to carry passengers by road and to let passenger vehicles on hire with or without trailers for the carriage of goods).

(6) Where an order is made under subsection (5) above in relation to the Executive, section 16(2) of the 1968 Act (which relates to the provision of special information in the annual report of Authorities and Executives as to certain businesses of providing services for the carriage of passengers by road) shall cease to apply in relation to any accounting period of the Executive beginning on or after the day specified in the order.

~~(7) The Secretary of State may by order provide for the repeal of—~~

~~(a) section 24(2) of the 1968 Act; and~~

~~(b) section 10(1)(i) and (viii) of that Act;~~

~~on the date on which, by virtue of the cumulative effect of orders made under this section, there ceases to be any Passenger Transport Executive in Great Britain who are under the duty imposed by section 24(2) or have the powers under section 10(1)(i) and (viii).~~

~~(8) Any order made under subsection (7) above may contain such supplementary, incidental and consequential provisions (including provisions modifying any enactment contained in this or any other Act) as may appear to the Secretary of State to be necessary or expedient in consequence of any repeals made by the order.~~

<Sections 61 and 62 omitted as they are unaffected by the Local Transport Bill>

Passenger transport in other areas

63 Functions of local councils with respect to passenger transport in areas other than *integrated transport areas and passenger transport areas* <amended by clauses 10 and 63 and Schedule 4>

(1) In each non-metropolitan county of England and Wales it shall be the duty of the county council--

(a) to secure the provision of such public passenger transport services as the council consider it appropriate to secure to meet any public transport requirements within the county which would not in their view be met apart from any action taken by them for that purpose;

<paragraph (b) already repealed>

(2) It shall be the duty of a council in Scotland, in relation to any part of their area which is not a passenger transport area--

(a) to secure the provision of such public passenger transport services as the council consider it appropriate to secure to meet any public transport requirements within their area which would not in their view be met apart from any action taken by them for that purpose; and

(b) to formulate from time to time general policies as to the descriptions of services the propose to secure under paragraph (a) above.

<Subsection (3) already repealed>

(4) A non-metropolitan district council in England shall have power to secure the provision of such public passenger transport services as they consider it appropriate to secure to meet any public transport requirements within their area which would not in their view be met apart from any action taken by them for that purpose.

IN RELATION TO ENGLAND AND WALES:

(5) *For the purpose of securing the provision of any service under subsection (1)(a) or (2)(a) or (as the case may be) under subsection (4) above any council shall have power to enter into an agreement providing for service subsidies; but their power to do so--*

(a) in England and Wales, shall be exercisable only where the service in question would not be provided, or would not be provided to a particular standard, without subsidy;

(aa) in Scotland, shall be exercisable only where the service in question would not be provided without subsidy; and

(b) is subject to sections 89 to 92 of this Act.

(5A) The reference in subsection (5)(a) above to the standard to which a service is provided includes--

(a) the frequency or timing of the service;

(b) the days, or times of day, when the service is provided;

(c) the vehicles used to provide the service.

IN RELATION TO SCOTLAND:

(5) For the purpose of securing the provision of any service under subsection (1)(a) or (2)(a) or (as the case may be) under subsection (4) above any council shall have power to enter into an agreement providing for service subsidies; but their power to do so--

(a) **in England and Wales, shall be exercisable only where the service in question would not be provided, or would not be provided to a particular standard, without subsidy;**

(aa) **in Scotland, shall be exercisable only where the service in question--**

(i) would not be provided; or

(ii) would not be provided to the standard specified in a quality partnership scheme made under section 6 of the Transport (Scotland) Act 2001 (asp 2),

without subsidy; and

(b) is subject to section 92 of this Act.

IN RELATION TO ENGLAND, WALES AND SCOTLAND:

(6) A non-metropolitan county council in England and Wales or, in Scotland, a council shall have power to take any measures that appear to them to be appropriate for the purpose of or in connection with promoting, so far as relates to their area--

(a) the availability of public passenger transport services other than subsidised services and the operation of such services, in conjunction with each other and with any available subsidised services, so as to meet any public transport requirements the council consider it appropriate to meet; or

(b) the convenience of the public (including persons who are elderly or disabled) in using all available public passenger transport services (whether subsidised or not).

IN RELATION TO ENGLAND AND WALES:

(7) It shall be the duty of a county council or, in Scotland, a council, in exercising their power under subsection (6) above, to have regard to a combination of economy, efficiency and effectiveness.

(8) It shall be the duty of any council, in exercising or performing any of their functions under the preceding provisions of this section, to have regard to the transport needs of members of the public who are elderly or disabled. ~~and to the appropriate bus strategy.~~

~~(8A) In subsection (8) "the appropriate bus strategy" means--~~

~~(a) in the case of a council which is a local transport authority (within the meaning of section 108(4) of the Transport Act 2000), their bus strategy;~~

~~(b) in the case of a district council which is not such an authority, the bus strategy of the council for the county in which the district is situated.~~

(9) References in subsection (6) above to subsidised services are references to services provided under an agreement providing for service subsidies entered into--

(a) by the council in question or by any other county or district council or in Scotland council under this section; or

(b) by the Passenger Transport Executive for any **integrated transport area or** passenger transport area under section 9A(4) of the 1968 Act.

IN RELATION TO SCOTLAND:

(7) *It shall be the duty of a county council or, in Scotland, a council, in exercising their power under subsection (6) above, so to conduct themselves as not to inhibit competition between persons providing or seeking to provide public passenger transport services in their area.*

(8) *It shall be the duty of any council, in exercising or performing any of their functions under the preceding provisions of this section, to have regard to the transport needs of members of the public who are elderly or disabled.*

(9) *References in subsection (6) above to subsidised services are references to services provided under an agreement providing for service subsidies entered into--*

(a) by the council in question or by any other county or district council or in Scotland council under this section; or

(b) by the Passenger Transport Executive for any passenger transport area under section 9A(4) of the 1968 Act.

(10) In this Act--

(a) "public passenger transport services" means all those services on which members of the public rely for getting from place to place, when not relying on private facilities of their own, including school transport but not--

(i) services provided under permits under section 19 of this Act, other than services provided wholly or mainly to meet the needs of members of the public who are elderly or disabled; or

(ii) excursions or tours; and

(b) references, in relation to any Passenger Transport Executive, non-metropolitan county or district council or in Scotland council, to agreements providing for service subsidies are references to agreements under which any person undertakes to provide a public passenger transport service of any description on terms which include provision for the making of payments to that person by that Executive or council.

<Sections 64 to 73 omitted as they are unaffected by the Local Transport Bill, other than as a consequence of the name change for Passenger Transport Authorities and passenger transport areas in England and Wales>

74 Disabilities of directors of public transport companies <as it applies in relation to England and Wales> <amended, in relation to England and Wales, by clause 66 and Schedule 4>

(1) A director of a public transport company who is paid for acting as such or is an employee of the public transport company or a subsidiary of the public transport company shall be disqualified for being elected or being a member--

(a) of any council who are that company's controlling authority; or

(b) where that company's controlling authority are a composite authority, of any of the component councils.

(2) Where a public transport company's controlling authority are **an Integrated Transport Authority for an integrated transport area** in England and Wales, a director of that company who is paid for acting as such or is an employee of that company or a subsidiary of that company shall be disqualified for being appointed or being a member of **that Integrated Transport Authority**.

~~(3) Subject to the following provisions of this section, if a director of a public transport company is a member of any such council as is mentioned in subsection (1)(a) or (b) above or of any such Passenger Transport Authority as is mentioned in subsection (2) above he shall not at any meeting of that council or Authority—~~

~~(a) take part in the consideration or discussion of any contract or proposed contract with, or any other matter relating to the activities of, the public transport company or a subsidiary of that company; or~~

~~(b) vote on any question with respect to any such contract, proposed contract or other matter.~~

~~(3A) Subject to the following provisions of this section, where a director of a public transport company is a member of the executive of any such council as is mentioned in subsection (1)(a) or (b) above which are operating executive arrangements under Part II of the Local Government Act 2000, he shall not, in the course of the discharge of any function that is the responsibility of the executive, take any action in the consideration, or the making of any decision with respect to any contract or proposed contract with, or any other matter relating to the activities of, the public transport company or a subsidiary of that company.~~

~~(3B) Subsection (3) or (3A) above shall not prohibit a person from taking part in the consideration or discussion of, or from voting on any question with respect to, a local transport plan or bus strategy.~~

~~(4) The Secretary of State may grant a written dispensation from subsection (3) or (3A) above in the case of any individual member, except that no such dispensation may be granted in the case of a member of a council's executive acting alone.~~

~~(5) Any such dispensation—~~

~~(a) may extend both to the consideration or discussion of any such contract, proposed contract or other matter and to voting with respect to it, or to either alone;~~

~~(b) may relate to contracts, proposed contracts or other matters of all descriptions or of any particular description specified in the dispensation; and~~

~~(c) may be withdrawn or varied at any time by a notice in writing given by the Secretary of State to the member in question.~~

~~(6) The Secretary of State may confer exemptions from subsection (3) or (3A) above either generally or in the case of any class or description of members except that no such exemption may be granted in the case of a member of a council's executive acting alone; and—~~

~~(a) subsection (5)(a) and (b) above shall apply in relation to any such exemption as they apply in relation to any dispensation that may be granted under subsection (4) above; and~~

~~(b) any such exemption may be withdrawn or varied at any time by the Secretary of State.~~

~~(7) If any person fails to comply with subsection (3) or (3A) above he shall for each offence be liable on summary conviction to a fine not exceeding level 4 on the standard scale, unless he proves that he did not know that a contract or proposed contract with, or any other matter relating to the activities of, the company concerned was the subject of consideration at the meeting in question.~~

~~(8) — A prosecution for an offence under this section shall not, in England and Wales, be instituted except by or on behalf of the Director of Public Prosecutions.~~

~~(9) — A council who are a public transport company's controlling authority or one of the component councils of such an authority, and any Passenger Transport Authority for a passenger transport area in England and Wales who are a public transport company's controlling authority, may by standing orders provide for the exclusion of a member of that council or Authority who is a director of that company from a meeting of that council or Authority while any contract or proposed contract with, or any other matter relating to the activities of, the public transport company or a subsidiary of that company is under consideration.~~

~~(10) — Subsections (3) and (9) above shall apply as respects members of—~~

~~(a) — a committee of any such council or Passenger Transport authority as is mentioned in subsection (9) above; or~~

~~(b) — a joint committee of two or more local authorities one or more of whom is such a council or Passenger Transport Authority;~~

~~(including in either case a sub-committee), as they apply in respect of members of that council or Authority but with the substitution of references to meetings of any such committee for references to meetings of that council or Authority.~~

~~(11) — In subsection (10)(b) above, "local authority"—~~

~~(a) — as respects England and Wales, has the same meaning as in the 1972 Act, except that it includes also a metropolitan county passenger transport authority; and~~

~~(b) — as respect Scotland, has the same meaning as in the Local Government (Scotland) Act 1973.~~

~~(12) — For the purposes of section 38 of the Local Government (Scotland) Act 1973 (disability of members of authorities for voting on account of interest in contracts, etc.) a member of any such council or Passenger Transport Authority as is mentioned in subsection (9) above who is a director of the public transport company in question shall not be treated as having a pecuniary interest in any contract or proposed contract with, or in any other matter relating to the activities of, the public transport company or a subsidiary of that company by reason only of any interest of his in that company or in a subsidiary of that company.~~

(13) The provisions of this section shall apply in relation to a director of a subsidiary of a public transport company as they apply in relation to a director of such a company.

75 Powers of investment and disposal in relation to public transport companies *<amended, in England and Wales, by clause 66 and Schedule 4>*

(1) Without prejudice to the powers of a Passenger Transport Executive, **an Integrated Transport Authority**, a Passenger Transport Authority, a district council or, in Scotland, a council (other than the council for Orkney Island, Shetland Islands or Western Isles) --

(a) to subscribe for shares on formation of a company formed by them (whether alone or jointly with any other council) in pursuance of any provision of this Act; or

(b) to acquire any shares in or other securities of a company so formed by way of consideration for any transfer of property, rights and liabilities to that company required or authorised under any such provision;

any such Authority or council shall have power at any time to subscribe for, take up or acquire (as the case may be) any shares in or other securities of any associated company.

(2) Any such Authority or council shall each have power to provide for the disposal, in such manner as they think fit, of any such shares or other securities.

~~(3) — The exercise of the power under subsection (1) or (2) above requires the consent of the Secretary of State; and a public transport company's controlling authority may not, without that consent, in exercise of their control over that company permit —~~

~~(a) — the disposal by that company of the whole of that company's undertaking;~~

~~(b) — any disposal by that company of any shares in or other securities of a body corporate which is that company's subsidiary; or~~

~~(c) — any disposal by that company of any part of that company's undertaking, or of any assets of that company (other than shares or securities within paragraph (b) above) which appears to that authority (or, in the case of a composite authority, to both or all of the component councils) to affect materially the structure of the company's business.~~

(4) **An Integrated Transport Authority, a** Passenger Transport Authority, a district council or, in Scotland, a council (other than the council for Orkney Island, Shetland Islands or Western Isles) who are a public transport company's controlling authority or (as the case may be) both or all of the component councils of a composite authority who are a public transport company's controlling authority, may, in exercising their power under subsection (2) above in relation to the disposal of any shares in or other securities of that company, provide for an employees' share scheme to be established in respect of that company; and any such scheme may provide for the transfer of shares without consideration.

<Sections 76 to 78 omitted as they are unaffected by the Local Transport Bill>

79 Financial backing for establishment and operations of public transport companies <amended, in relation to England and Wales, by clause 66 and Schedule 4>

(1) **An Integrated Transport Authority, a** Passenger Transport Authority and a district council or, in Scotland, a council (other than the council for Orkney Islands, Shetland Islands or Western Isles) shall each have power to make loans to any associated company, or to guarantee loans made to any associated company by any other person, for the provision of working capital.

(2) The reference in subsection (1) above to guaranteeing loans is a reference to guaranteeing the repayment of the principal of, the payment of interest on, and the discharge of any other financial obligation in connection with, any such loans.

~~(3) — The exercise of the power under subsection (1) above, otherwise than in pursuance of any provision made by any scheme or order under this Part of this Act in connection with any transfer of property, rights and liabilities to the company in question for which that scheme or order provides, requires the consent of the Secretary of State.~~

(4) **An Integrated Transport Authority, a** Passenger Transport Authority and a district council or, in Scotland, a council (other than the council for Orkney Islands, Shetland Islands or Western Isles) shall each have power to make loans--

- (a) to any associated company; or
- (b) to any subsidiary of an associated company;

for the purpose of meeting any expenses incurred or to be incurred by that company or subsidiary in connection with the provision or improvement of assets in connection with its business.

(5) Any loan under subsection (4) above must be made on terms, both as to rates of interest and otherwise, no more favourable than the terms on which the authority making the loan would themselves be able to borrow at the time when the loan is made.

(6) **An Integrated Transport Authority, a** Passenger Transport Authority and a district council or, in Scotland, a council (other than the council for Orkney Islands, Shetland Islands or Western Isles) shall each have power to give any guarantees and do any other things which appear to that Authority or (as the case may be) to that council to be necessary or expedient for the purpose of or in connection with--

- (a) any disposal authorised by section 75(2) of this Act; or
- (b) any disposal by any associated company of the whole or any part of that company's undertaking or of any property, rights or liabilities of that company.

~~(7) Where any such disposal requires or (as the case may be) may not be permitted without the consent of the Secretary of State, the power under subsection (6) above may not be exercised in relation to that disposal without the consent of the Secretary of State.~~

(8) Subject to subsection (9) below, **an Integrated Transport Authority, a** Passenger Transport Authority and a district council or, in Scotland, a council (other than the council for Orkney Islands, Shetland Islands or Western Isles) shall each have power, ~~with the consent of the Secretary of State,~~ to provide financial assistance by way of grants, loans or guarantees for any associated company which has incurred losses affecting the viability of its business.

(9) The power under subsection (8) above may only be exercised for the purpose of any plan approved by the Secretary of State for improving efficiency of the company's operations and its commercial performance generally so as to enable it to carry on business without further assistance from the Authority or council concerned or from any other council who are a member of the company.

(10) **An Integrated Transport Authority, a** Passenger Transport Authority and a district council or, in Scotland, a council (other than the council for Orkney Islands, Shetland Islands or Western Isles) shall each have power, where on the winding up of any associated company the assets of the company are not sufficient to meet the company's liabilities, to make to the creditors of the company such payments as may be necessary to meet the balance of those liabilities (and may accordingly give to persons dealing or proposing to deal with any such company such guarantees with respect to the exercise of their power under this subsection in relation to that company as they think fit).

<Sections 80 to 86 omitted as they are unaffected by the Local Transport Bill, other than as a consequence of the name change for Passenger Transport Authorities and passenger transport areas in England and Wales>

87 Interpretation of Part IV

In this Part of this Act--

- (a) references to the initial company shall be read, in relation to any passenger transport area, in accordance with section 60(1) of this Act;
- (b) references to a council operating a bus undertaking shall be read in accordance with section 66(2) of this Act;
- (c) references to--
 - (i) a service for the carriage of passengers by road which requires a PSV operator's licence;
 - (ii) the provision of any such service by any council; and
 - (iii) the bus undertaking of any council operating a bus undertaking;

shall be read in accordance with the relevant provisions of section 66(7) of this Act;

(d) references to a joint undertaking of which any council's bus undertaking forms part shall be read in accordance with section 67(6) of this Act; and

- (e) references to--
 - (i) a public transport company;
 - (ii) a public transport company's controlling authority;
 - (iii) a composite authority;
 - (iv) component councils of a composite authority; and
 - (v) an associated company;

shall be read in accordance with the relevant provisions of section 72 of this Act and

(f) references to a district council shall be read, in relation to Wales, as references to a county council or county borough council, and references to a district shall be so read as references to a county or, as the case may be, county borough.

Part V

Financial Provisions

Expenditure on public passenger transport services

88 Expenditure on public passenger transport services <as it applies in England and Wales>

(1) Any power conferred on any authority responsible for expenditure on public passenger transport services to enter into agreements providing for service subsidies (however framed, and whether arising under this Act or under any other enactment) shall be subject to sections 89 to 92 of this Act.

(2) it shall be the duty--

- (a) of all such authorities, in exercising and performing their functions with respect to securing the provision of public passenger transport services; and

(b) of all authorities who are--

(i) local education authorities in England and Wales or education authorities in Scotland; or

(ii) local authorities exercising, in England and Wales, social services functions or, in Scotland, social work functions;

in relation to any expenditure on transport for the purposes of or in connection with the exercise and performance of their functions as local education authorities or education authorities or (as the case may be) of their social services or social work functions;

to co-operate with one another so as to secure, in the interests of the ratepayers of their areas, the best value for money from their expenditure on public passenger transport, taken as a whole.

(3) In subsection (2)(b)(ii) above "local authority" means--

(a) in relation to England and Wales, an authority who are a local authority for the purposes of the Local Authority Social Services Act 1970; and

(b) in relation to Scotland, an authority who are a local authority for the purposes of the Social Work (Scotland) Act 1968.

(4) It shall be the duty of all authorities mentioned in subsection (2) above to afford to one another such information as may be reasonably required for the purpose of the co-operation required of them under that subsection.

(5) Where, as a result of any such co-operation, any such authority--

(a) incur expenditure which they would not otherwise have incurred; or

(b) receive less revenue than they would otherwise have done;

that authority may, by notice to the other authority or authorities concerned, require that other authority or (as the case may be) those other authorities to reimburse the amount of that expenditure or of that reduction in revenue.

(6) If--

(a) any amount in respect of which, in accordance with a notice under subsection (5) above, any such authority or authorities are required to reimburse another such authority; or

(b) where two or more such authorities are required by any such notice to reimburse another such authority, the share of that amount payable by each authority concerned;

is not determined by agreement between both or all the authorities concerned within six months of the receipt of the notice or such longer period as may be agreed between them, that amount and (where paragraph (b) above applies) the share payable by each authority concerned shall be determined by an arbitrator or, in Scotland, by an arbiter.

(7) Any such arbitrator or (as the case may be) arbiter shall be appointed either by agreement between the authorities concerned or, in default of such agreement, by the President of the Chartered Institute of Public Finance and Accountancy.

(8) References in this Part of this Act to authorities responsible for expenditure on public passenger transport services are references to--

(a) Passenger Transport Executives;

(b) non-metropolitan county and district councils in England and Wales; and

(c) councils in Scotland;

and in sections 89 to 92 of this Act include references to Transport for London in relation to any exercise of its power under section 156(2) or (3) (general powers) of the Greater London Authority Act 1999 which by virtue of section 65(3) of this Act is subject to those sections.

**89 Obligation to invite tenders for subsidised services *<already repealed in relation to Scotland>*
*<amended, in relation to England and Wales, by clause 10>***

(1) Subject to sections 90 and 91 of this Act, an authority responsible for expenditure on public passenger transport services may not enter into an agreement providing for service subsidies under which a local service is to be provided except by accepting a tender invited in pursuance of this section.

(2) Where any such authority propose to secure the provision of any local service by entering into any such agreement, the authority shall invite tenders for the provision of that service for such period and on such basis as may be specified in the invitation to tender.

<subsection (3) already repealed>

(4) Subject to subsection (5) below, any such invitation--

(a) must be issued generally, in such manner as the authority issuing the invitation consider appropriate for bringing it to the attention of persons who may be interested; and

(b) must also be issued individually to all persons who have given to that authority a written notice indicating that they wish to receive invitations to tender for the provision of local services for that authority's area or (as the case may be) for the provision of such services of any description to which the invitation relates.

(5) Any such notice shall specify the address to which any such invitation is to be directed, and it shall be sufficient for the purposes of subsection (4)(b) above if the authority send the invitation to the person giving any such notice at the address so specified.

(6) An authority issuing an invitation to tender under this section shall not accept any tender submitted by a person who is not the holder of either--

(a) a PSV operator's licence, not being--

<paragraph (i) already repealed>

(ii) a licence to which any condition is attached under section 26 of this Act prohibiting the holder from using vehicles under the licence to provide local services of all descriptions or (as the case may be) of any description to which the invitation relates; or

(b) a permit under section 22 of this Act.

(7) An authority issuing an invitation to tender under this section shall, in determining whether to accept a tender submitted in response to the invitation or which (if any) of several such tenders to accept, have regard in particular to--

(a) a combination of economy, efficiency and effectiveness;

~~(b) the implementation of the policies set out in the appropriate bus strategy; and~~

(c) the reduction or limitation of traffic congestion, noise or air pollution.

~~(8) In subsection (7)(b) above "the appropriate bus strategy" means--~~

~~(a) in the case of a local transport authority (within the meaning of section 108(4) of the Transport Act 2000), their bus strategy;~~

~~(b) in the case of a district council which is not such an authority, the bus strategy of the council for the county in which the district is situated; and~~

~~(c) in the case of a Passenger Transport Executive for a passenger transport area, the bus strategy made jointly by the Passenger Transport Authority for the area and the councils for the metropolitan districts comprised in the area.~~

90 Provisions supplementary to section 89 <already repealed in relation to Scotland> <amended, in relation to England and Wales, by clause 65>

(1) The period specified in any invitation to tender issued under section 89 of this Act as the period for which a service to which the invitation relates is to be provided shall not exceed ~~five years~~ **8 years** beginning with the date on which any agreement entered into by accepting a tender submitted in response to the invitation is concluded.

(2) Such information as may be prescribed with respect to any tenders submitted in response to any such invitation to tender shall be published by the authority issuing the invitation in such manner as may be prescribed.

(3) On entering into an agreement by accepting any such tender that authority shall publish in such manner as may be prescribed their reasons for considering that the payment of service subsidies to secure the service in question in accordance with the terms of that tender accords with section 89(7) of this Act.

(4) Regulations may provide for treating a specification of terms of service, in such form as may be prescribed--

(a) prepared, with reference to any invitation to tender issued under section 89 of this Act by any authority responsible for expenditure on public passenger transport services, by the authority issuing the invitation with respect to the provision of that service by a company to be formed in pursuance of any requirement under Part IV of this Act to carry on any business which includes any current activities of that authority; and

(b) ratified by that company after its formation within such period and in such manner as may be prescribed;

as if it were a tender submitted in response to that invitation by that company within any period allowed for the submission of tenders in accordance with that invitation.

(5) The reference in subsection (4)(a) above to any current activities of an authority responsible for expenditure on public passenger transport services is a reference to any activities which at the time when the specification of terms of service is prepared are currently carried on by or on behalf of that authority, or by any body of which that authority is a member or to which it appoints any members.

91 Exceptions from section 89 <already repealed in relation to Scotland>

(1) Regulations may provide for excluding from section 89(1) of this Act agreements of any description specified in the regulations; and any such description may be framed by reference to--

- (a) the description of service to which the agreement relates;
- (b) the description of persons proposing to operate the service;
- (c) the period for which the service is to be provided under the agreement;
- (d) the aggregate amount of the service subsidies provided for under the agreement; or
- (e) any other relevant circumstances.

(2) Section 89(1) of this Act shall not apply in any case where it appears to an authority responsible for expenditure on public passenger transport services that action is urgently required for the purpose of--

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

and that it is necessary for that purpose to enter into an agreement providing for service subsidies in order to secure that service.

(3) Where by virtue of subsection (2) above any such authority enter into an agreement to which section 89(1) of this Act does not apply, the authority shall as soon as possible invite tenders for the provision of the service which is the subject of that agreement for such period and on such basis as may be specified in the invitation to tender; and sections 89(3) to (8) and 90 of this Act shall apply in any such case as if the invitation had been issued under section 89(2).

(4) Any agreement entered into by virtue of subsection (2) above shall be made so as to remain in force no later than the end of the period of three months beginning with the day immediately following the end of the period allowed for the submission of tenders in accordance with the invitation to tender issued under subsection (3) above.

(5) Subject to the following provisions of this section, where--

- (a) an invitation to tender for the provision of any service is issued under section 89(2) of this Act or subsection (3) above; and
- (b) no tender, or no tender which the authority issuing the invitation consider acceptable, is submitted in response to that invitation;

any power of that authority to enter into an agreement providing for service subsidies in order to secure that service shall cease to be subject to section 89(1) of this Act.

(6) Any agreement which by virtue of subsection (5) above is entered into by an authority responsible for expenditure on public passenger transport services otherwise than by acceptance of a tender invited in pursuance of section 89 or subsection (3) above shall be made so as to remain in force no later than the end of the period specified in pursuance of section 90(1) of this Act in the invitation to tender mentioned in subsection (5)(a) above.

(7) On entering into any such agreement an authority shall publish in such manner as may be prescribed either--

- (a) a statement that no tender was submitted in response to that invitation to tender; or
- (b) a statement of their reasons for considering that no tender so submitted was acceptable;

as the case may require.

92 General provisions with respect to the exercise of service subsidy functions <extends to England, Scotland and Wales>

- (1) An authority responsible for expenditure on public passenger transport services shall, in the exercise and performance of their functions in relation to agreements providing for service subsidies, have regard to the interests of the public and of persons providing public passenger transport services in their area.
- (2) Regulations under this section--
 - (a) may make further provision for regulating the exercise and performance by authorities responsible for expenditure on public passenger transport services of their functions in relation to agreements providing for service subsidies; and
 - (b) may make provision for limiting to an amount specified in the regulations the aggregate amount of the service subsidies any such authority may agree to pay under any one such agreement; and
 - (c) may make provision for exceptions from section 89(4) of this Act in such cases as may be prescribed.
- (3) The provisions of sections 89 to 91 of this Act shall be subject to this section and any provision made by regulations under this section.

<Sections 93 to 111 omitted as they are unaffected by the Local Transport Bill, other than as a consequence of the name change for Passenger Transport Authorities and passenger transport areas in England and Wales>

112 Interpretation of Part V

- (1) In this Part of this Act--
 - (a) references to authorities responsible for expenditure on public passenger transport services shall be read in accordance with section 88(8) of this Act;
 - (b) references to service subsidies are references to the payments that fall to be made by any such authority under any agreement providing for service subsidies;
 - (c) references to the current reimbursement arrangements for eligible service operators participating in any scheme under section 93 of this Act shall be read in accordance with section 94(5) of this Act;
 - (d) references to a participation notice shall be read in accordance with section 97(2) of this Act;
 - (e) references to securing the provision of a service include references to securing the provision of a service by way of continuance of an existing service, and references in any other context to the provision of a service are to be read consistently with that; and
 - (f) "travel concession" means the reduction or waiver of a fare either absolutely or subject to terms, limitations or conditions.

Part VI

Miscellaneous and General

<Sections 113 to 124 omitted as they are unaffected by the Local Transport Bill>

The Disabled Persons Transport Advisory Committee

125 The Disabled Persons Transport Authority Committee and Secretary of State's Guidance

- (1) There shall be established in accordance with this section a body to be known as the Disabled Persons Transport Advisory Committee.
- (2) The Committee shall consist of--
 - (a) a chairman appointed by the Secretary of State; and
 - (b) not less than ten, nor more than twenty, other members appointed by the Secretary of State after consultation with such bodies as appear to him to be representative of the interests of persons likely to be significantly concerned with matters within the competence of the Committee.
- (3) The Secretary of State shall, so far as is reasonably practicable, secure that at all times at least half of the membership of the Committee consists of persons who are disabled.
- (4) The Secretary of State may appoint one or more members of the Committee to be deputy chairman or (as the case may be) deputy chairmen of the Committee.
- (5) It shall be the duty of the Committee to consider any matter, relating to the needs of disabled persons in connection with public passenger transport, which is referred to them by the Secretary of State or which they think it appropriate to consider without such a reference and to give such advice to the Secretary of State on any matter which they have considered as they think appropriate.
- (6) The Committee shall make an annual report to the Secretary of State, who shall lay a copy of it before each House of Parliament.
- (7) The Secretary of State shall from time to time issue guidance as to measures that may be taken with a view to--
 - (a) making access to vehicles used in the provision of public passenger transport services by road easier for disabled persons; and
 - (b) making such vehicles better adapted to the needs of disabled persons.
- (8) The Secretary of State shall consult the Committee before issuing any such guidance.
- (9) Schedule 5 to this Act shall have effect with respect to the Committee.

125A The Public Transport Users' Committee for England <inserted, in relation to England and Wales, by clause 68>

(1) The Secretary of State may by order establish a body corporate, to be known as the Public Transport Users' Committee for England.

A body established under this subsection is referred to in this section and [sections 125B and 125C](#) as the Committee.

(2) The Secretary of State may by order provide for a body established under subsection (1) to be known by a different name.

(3) An order under subsection (1) may include provision--

- (a) about the status and membership of the Committee (including how members are to be appointed);**
- (b) about the proceedings of the Committee;**
- (c) about the declaration by members of any financial or other interests, and the recording of such interests;**
- (d) about officers and staff of the Committee;**
- (e) about the discharge of functions of the Committee (including provision for the discharge of functions by sub-committees with members who are not all members of the Committee);**
- (f) about the making of reports by the Committee to—**
 - (i) the Secretary of State, or**
 - (ii) such other person as the Secretary of State may determine;**
- (g) about the making of payments to or in respect of officers, staff and members of the Committee;**
- (h) about the payment of pensions and the making of other payments to or in respect of former officers and staff of the Committee;**
- (i) about the keeping of accounts by the Committee and their audit and submission to the Secretary of State;**
- (j) about the acquisition and disposal by the Committee of property, rights and liabilities (including land);**
- (k) authorising the Committee to charge for any services it provides in the discharge of any of its functions;**
- (l) requiring the Committee to have regard to the policies and activities of such other persons or bodies as the Secretary of State may determine;**
- (m) for the transfer of staff, property, rights and liabilities to the Committee.**

(4) The Secretary of State may make payments to the Committee of such amounts, at such times, and on such conditions (if any) as the Secretary of State considers appropriate.

(5) The Secretary of State may by order make provision for the transfer of staff, property, rights and liabilities from the Committee to any other person.

(6) An order made by virtue of subsection (2) may make such provision, including provision amending, repealing or revoking any enactment (whenever passed or made), as appears to the Secretary of State to be necessary in consequence of the order.

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

(7) No order shall be made under this section unless a draft of the order has been laid before, and approved by a resolution of, each House of Parliament.

125B Functions of the Committee *<inserted, in relation to England and Wales, by clause 68>*

(1) The Committee may consider and make recommendations or representations to the Secretary of State about any matter relating to--

(a) prescribed public passenger transport services, or public passenger transport services that are of a prescribed description, to the extent that they operate in England; or

(b) prescribed public passenger transport facilities in England, or public passenger transport facilities in England that are of a prescribed description.

(2) The Committee must consider and make recommendations to the Secretary of State about any such matter if asked to do so by the Secretary of State.

(3) The Secretary of State may by order--

(a) confer further functions on the Committee;

(b) remove functions from the Committee;

(c) make changes to any functions of the Committee;

(d) transfer any functions of the Committee to another person (including to the Secretary of State).

(4) An order under subsection (3) may confer a function on the Committee, or make changes to a function of the Committee, only if the new function, or the function as changed, relates to --

(a) public passenger transport services, so far as operating in England; or

(b) public passenger transport facilities in England.

(5) The functions that may be conferred on the Committee under subsection (3)(a) include a power--

(a) to enter into arrangements with another body for discharging functions on behalf of that body in relation to England;

(b) to give effect to any such arrangements;

(c) to enter into arrangements with another body for that body to discharge any functions of the Committee on behalf of the Committee.

(6) The discharge of a function by the Committee on behalf of another body does not affect the responsibility of the body for the discharge of the function.

(7) The discharge of a function by another body on behalf of the Committee does not affect the responsibility of the Committee for the discharge of the function.

(8) The provision that may be made in an order under subsection (3) includes provision amending or repealing any provision of an enactment conferring functions on the Committee.

(9) The Committee may do anything which is calculated to facilitate, or is conducive or incidental to, the discharge of any of its functions.

(10) In this section--

“prescribed” means prescribed by order made by the Secretary of State;

“public passenger transport facilities” means facilities for public passenger transport services.

(11) No order shall be made under this section unless a draft of the order has been laid before, and approved by a resolution of, each House of Parliament.

125C Power to confer functions in relation to the Committee *<inserted, in relation to England and Wales, by clause 68>*

- (1) This section applies where an order under section 125B(3) confers on the Committee power to make recommendations or representations to a body or person.**
- (2) The Secretary of State may by order confer on the body or person functions in respect of such recommendations or representations.**
- (3) An order under this section may confer a function on a body or person only if the new function relates to—**
 - (a) public passenger transport services, so far as operating in England; or**
 - (b) public passenger transport facilities in England.**
- (4) The provision that may be made in an order under this section includes provision amending, repealing or revoking any provision of an enactment (whenever passed or made) conferring functions on the body or person.**
- (5) In this section "public passenger transport facilities" has the same meaning as in section 125B.**
- (6) No order shall be made under this section unless a draft of the order has been laid before, and approved by a resolution of, each House of Parliament.**

Provisions supplementary to Parts I and II

126 Application of sections 52 and 56 of the 1981 Act *<amended, in relation to England, Scotland and Wales, by clause 56; and, in relation to England and Wales only, by clause 47. The amendments not extending to Scotland are shown here in square brackets>*

- (1) The power under section 52(1) of the 1981 Act (fees for grant of licences, etc) to prescribe fees chargeable by traffic commissioners shall apply in relation to fees so chargeable in respect of--**
 - (a) applications for the registration of services under section 6 of this Act and for the variation or cancellation of such registrations;**
 - (aa) the continuation in force of registrations under that section;**
 - (b) the issue of any documents issued in accordance with regulations under that section with respect to registrations under that section;**
 - (c) applications for, and the grant of, permits under section 19 or 22 of this Act; and**
 - (d) applications for, and the grant of, London local service licences.**
- (2) Subsection (2) of that section (power of traffic commissioners to decline to proceed until any fee or instalment of a fee is paid) shall accordingly apply as if subsection (1) above were included in subsection (1) of that section; and for that purpose the references in subsection (2) of that section to licences shall include references to permits.**

(3) Section 56 of the 1981 Act (records of licences) shall apply in relation to **each of the following-**

(a) registrations under section 6 of this Act;

(b) traffic regulation conditions determined under section 7 of this Act; ~~and~~

(bb) permits under section 19 or 22 of this Act granted, varied or revoked by a traffic commissioner;

(bc) copies of permits submitted to a traffic commissioner by way of a return made pursuant to an order under section 19(7)(c) of this Act;

(c) London local service licences granted under Part II of this Act;

as it applies in relation to licences granted under that Act.

<Sections 127 to 133 omitted as they are unaffected by the Local Transport Bill, other than as a consequence of the name change for Passenger Transport Authorities and passenger transport areas in England and Wales>

134 Regulations, rules and orders

(1) Section 60 of the 1981 Act (general power to make regulations for purposes of that Act) shall have effect as if Parts I and II of this Act were contained in that Act.

<Subsection (2) already repealed>

(3) The power to make regulations under that section, as it applies by virtue of this section, shall extend to any of the following matters--

(a) applications for, and the issue of, permits under section 19 or 22 of this Act; and

(b) the issue of copies of such permits in the case of permits lost or destroyed.

(4) The Secretary of State may make regulations under this section for the purpose of carrying the provisions of this Act (apart from Parts I and II) into effect.

(5) Regulations or rules made under any provision of this Act (other than one contained in Part I or II), and any order made by the Secretary of State under any provision of this Act (including one so contained), may make different provision for different cases to which those regulations or rules or (as the case may be) to which that order applies, and may in particular make different provision as respects different areas.

135 Procedure for making regulations, rules and orders *<amended, in relation to England and Wales, by clause 68>*

(1) Section 61 of the 1981 Act (procedure for making regulations under that Act) shall have effect as if Parts I and II of this Act were contained in that Act.

(2) Any power of the Secretary of State--

- (a) to make regulations or rules under any provision of this Act (other than one contained in Part I or II); or
- (b) to make an order under any provision of this Act (including one so contained);

shall be exercisable by statutory instrument.

(3) Subject to subsection (4) below, any statutory instrument containing any such regulations, rules or order shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(4) Subsection (3) above does not apply to a statutory instrument containing an order under section 46, 52(5), 53(1), 85, **125A**, **125B**, **125C** or 140(2) of this Act.

136 Directions

(1) It shall be the duty of any person to whom the Secretary of State gives directions under this Act to give effect to those directions.

(2) Any direction given by the Secretary of State under any provision of this Act (including a direction specifying a period or date for any purposes of Part IV of this Act) may be varied or revoked by a subsequent direction given under that provision.

(3) Any direction given by the Secretary of State under this Act shall be in writing.

137 General interpretation *<amended, in relation to England and Wales, by Schedule 4>*

(1) In this Act, unless the context otherwise requires--

"the 1962 Act" means the Transport Act 1962;

"the 1972 Act" means the Local Government Act 1972;

"the 1968 Act" means the Transport Act 1968;

"the 1981 Act" means the Public Passenger Vehicles Act 1981;

"body" means a body of persons, whether corporate or unincorporate;

"bus service condition" has the meaning given by section 119(4) of this Act;

"bus substitution service" has the meaning given by section 119(1) of this Act;

"council", in relation to Scotland, means a council constituted under section 2 of the Local Government etc (Scotland) Act 1994;

"employees' share scheme" means a scheme for encouraging or facilitating the holding of shares or debentures in a company by or for the benefit of--

- (a) the bona fide employees or former employees of the company or of a subsidiary of the company; or

- (b) the wives, husbands, widows, widowers or children or step-children under the age of eighteen of such employees or former employees;

"equity share capital" has the meaning given in the Companies Act 1985;

"excursion or tour" means a service for the carriage of passengers by road at separate fares on which the passengers travel together on a journey, with or without breaks, from one or more places to one or more other places and back;

"functions" includes powers, duties and obligations;

"interest" means, in relation to a company's share capital of any description, a beneficial interest (whether held directly or through nominees or subsidiaries) in that share capital;

"liability" includes an obligation;

"local service" has the meaning given by section 2 of this Act;

"London" means the administrative area of Greater London as for the time being constituted;

"London local service" has the meaning given by section 34(1) of this Act;

"pension", in relation to a person, means a pension, whether contributory or not, of any kind whatsoever payable to or in respect of him, and includes--

- (a) a gratuity so payable;
- (b) a return of contributions to a pension fund, with or without interest on or any other addition to those contributions; and
- (c) any sums payable on or in respect of the death of that person;

"pension rights" includes, in relation to any person, all forms of right to or eligibility for the present or future payment of a pension, and any expectation of the accruer of a pension under any customary practice, and includes a right of allocation in respect of the present or future payment of a pension;

"prescribed" means prescribed by regulations;

"public passenger transport services" has the meaning given by section 63(10)(a) of this Act;

"the Railways Board" means the British Railways Board established under section 1 of the 1962 Act;

"regulations" means regulations made by the Secretary of State;

"securities", in relation to a body corporate, means any shares, stock, debentures, debenture stock, and any other security of a similar nature, of the body corporate;

"social services functions" means functions which are social services functions for the purposes of the Local Authority Social Services Act 1970;

"social work functions" means functions which are social work functions for the purposes of the Social Work (Scotland) Act 1968;

"stopping place" means, in relation to any service or part of a service, a point at which passengers are (or, in the case of a proposed service, are proposed to be) taken up or set down in the course of that service or part;

"subsidiary" means, in relation to any body corporate, a body corporate which is a subsidiary of the first-mentioned body corporate within the meaning of section 736 of the Companies Act 1985 as originally enacted (and not as substituted by section 144(1) of the Companies Act 1989);

"traffic area" means a traffic area constituted for the purposes of the 1981 Act, and section 80 of that Act shall apply to references in this Act to the South-Eastern and Metropolitan Traffic Area;

"wholly-owned subsidiary" means a subsidiary all the securities of which are owned by a body corporate of which it is a subsidiary, or by one or more other wholly-owned subsidiaries of that body, or partly by that body and partly by any wholly-owned subsidiary of that body;

and the expressions listed in subsection (2) below have the same meaning as in the 1981 Act.

(2) Those expressions are--

- "company";
- "contravention";
- "fares";
- "modification";
- "operator" (in references to the operator of a vehicle);
- "operating centre";
- "PSV operator's licence";
- "public service vehicle";
- "road";
- "statutory provision"; and
- "traffic commissioner".

(2A) In this Act--

- (a) any reference to a county shall be construed in relation to Wales as including a reference to a county borough;
- (b) any reference to a county council shall be construed in relation to Wales as including a reference to a county borough council; and
- (c) section 17(4) and (5) of the Local Government (Wales) Act 1994 (references to counties and districts to be construed generally in relation to Wales as references to counties and county boroughs) shall not apply.

(3) References in this Act to a vehicle's being used for carrying passengers for hire or reward shall be read in accordance with section 1(5) of the 1981 Act.

(4) References in this Act to agreements providing for service subsidies shall be read in accordance with section 63(10)(b) of this Act.

(5) References in this Act to **Integrated Transport Authorities, Passenger Transport Authorities and Passenger Transport Executives** ~~Passenger Transport Authorities and Executives~~ and to **integrated transport areas and** passenger transport areas are references respectively to the **Integrated Transport Authorities, Passenger Transport Authorities and Passenger Transport Executives** ~~Passenger Transport Authorities and Executives~~, and to **integrated transport areas and** passenger transport areas, for the purposes of Part II of the 1968 Act.

(6) References in this Act, in relation to a bus substitution service, to the withdrawal of service shall be read in accordance with section 120(1) of this Act (and references to a withdrawal of service or to withdrawals of service have a corresponding meaning).

(7) For the purposes of this Act the operator of a passenger transport service of any description is the person, or each of the persons, providing the service; and for those purposes the operator of a vehicle being used on a road for the carriage of passengers for hire or reward at separate fares shall be taken to be providing the service provided by means of the vehicle unless it is proved that the service is or forms part of a service provided not by himself but by one or more other persons.

(8) For the purposes of this Act an interest in a company's equity share capital is a controlling interest if it subsists in more than half in nominal value of that capital.

<Sections 138 to 140 omitted as they are unaffected by the Local Transport Bill>

<Schedules 1 to 3 omitted as they are unaffected by the Local Transport Bill>

SCHEDULE 4 *<amended by clause 71>*

CONSTITUTION, POWERS AND PROCEEDINGS OF THE TRANSPORT TRIBUNAL

Constitution

1

The Transport Tribunal shall be a court of record and have an official seal which shall be judicially noticed.

2

(1) The tribunal shall consist of--

- (a) a president and two or more chairmen appointed by the Lord Chancellor (referred to below in this Schedule as judicial members); and
- (b) two or more other members appointed by the Secretary of State.

(2) The president of the tribunal shall be--

- (a) a person who has a 10 year general qualification, within the meaning of section 71 of the Courts and Legal Services Act 1990; or
- (b) an advocate or solicitor in Scotland of at least 10 years' standing.

(2A) Each chairman shall be--

- (a) a person who has a 7 year general qualification, within the meaning of that section; or
- (b) an advocate or solicitor in Scotland of at least 7 years' standing.

Tenure of Office

3

- (1) Subject to the following provisions of this paragraph and to subsections (4) to (6) of section 26 of the Judicial Pensions and Retirement Act 1993 (power to authorise continuance in office up to the age of seventy-five), each judicial member of the tribunal shall hold office until the day on which he attains the age of seventy and shall then retire.
- (2) . . .
- (3) The Lord Chancellor may, if he thinks fit, remove a judicial member from office on the ground of incapacity or misbehaviour.
- (3A) The Lord Chancellor may remove a judicial member from office under sub-paragraph (3) only with the concurrence of the appropriate senior judge.
- (3B) The appropriate senior judge is the Lord Chief Justice of England and Wales, unless the judicial member who is to be removed exercises functions wholly or mainly in Scotland, in which case it is the Lord President of the Court of Session.
- (4) A judicial member may at any time by notice in writing to the Lord Chancellor resign his office.
- (5) Subject to the preceding provisions of this paragraph and to paragraph 6 below, a judicial member shall hold and vacate office in accordance with such terms and conditions as may be determined by the Lord Chancellor at the time of his appointment and shall, on ceasing to hold office, be eligible for reappointment.

4

- (1) A member of the tribunal appointed by the Secretary of State shall hold and vacate office in accordance with such terms and conditions (both as to his term of office and otherwise) as may be determined by the Secretary of State at the time of his appointment and, on ceasing to hold office, be eligible (subject to the following provisions) of this paragraph) for reappointment.
- (2) Subject to sub-paragraph (3) below, a person shall not be appointed as a member of the tribunal by the Secretary of State for a term extending beyond the end of the completed year of service in which he reaches seventy.
- (3) Where the Secretary of State considers it desirable in the public interest that a person should be appointed for a term exceeding that allowed under sub-paragraph (2) above, that person may be appointed for such term, not extending beyond the date on which he reaches seventy-five, as the Secretary of State thinks fit.
- (4) A member appointed by the Secretary of State may at any time by notice in writing to the Secretary of State resign his office.

Staff of the tribunal

5

The Lord Chancellor may make available to the tribunal such staff as he considers necessary for assisting the tribunal in the proper execution of their duties.

Remuneration and expenses

6

There shall be paid to the members of the tribunal such remuneration as the Lord Chancellor may with the consent of the Treasury determine.

7

Any remuneration payable under paragraph 6 above and any other expenses of the tribunal shall be met by the Lord Chancellor.

Powers and proceedings

8

(1) Subject to paragraph 9(2) below, the tribunal shall for the purpose of the exercise of any of their functions have full jurisdiction to hear and determine all matters whether of law or of fact.

(2) As respects--

- (a) the attendance and examination of witnesses;
- (b) the production and inspection of documents;
- (c) the enforcement of their orders;
- (d) the entry on and inspection of property; and
- (e) other matters necessary or proper for the due exercise of their jurisdiction;

the tribunal shall have, in England and Wales, all such powers, rights and privileges as are vested in the High Court, and, in Scotland, all such powers, rights and privileges as are vested in the Court of Session.

(3) Execution may be had in England and Wales of any order of the tribunal as if it were an order of the High Court, and any order of the tribunal may be recorded for execution in the books of council and session in Scotland, and shall be enforceable accordingly.

9

(1) On an appeal from any determination of a traffic commissioner ~~under the 1981 Act, the Goods Vehicles (Licensing of Operators) Act 1995 or this Act or under the Road Transport (Passenger Vehicles Cabotage) Regulations 1999~~ **under any of the enactments specified in sub-paragraph (1A) below**, the tribunal shall have power--

- (a) to make such order as they think fit; or
- (b) to remit the matter to the traffic commissioner for rehearing and determination by him in any case where they consider it appropriate;

and any such order shall be binding on the traffic commissioner.

(1A) The enactments are--

the 1981 Act;

this Act;

the Goods Vehicles (Licensing of Operators) Act 1995;

**the Road Transport (Passenger Vehicles Cabotage) Regulations 1999;
section 155 of the Transport Act 2000;
section 70 of the Local Transport Act 2008.**

(2) The tribunal may not on any such appeal take into consideration any circumstances which did not exist at the time of the determination which is the subject of the appeal.

10

(1) The president or, in his absence, such one of the other judicial members as the president or (if the president is unable for any reason to exercise the power conferred on him by this sub-paragraph) the Lord Chief Justice may direct, shall preside at any sitting of the tribunal.

(1A) Before exercising his functions under sub-paragraph (1) the Lord Chief Justice must--

- (a) consult the Lord Chancellor, and
- (b) obtain the agreement of the Lord President of the Court of Session.

(2) The president or other judicial member presiding at a sitting of the tribunal in pursuance of sub-paragraph (1) above is referred to below in this paragraph as the presiding member.

(3) If at any sitting of the tribunal the members sitting are evenly divided as to any decision, the presiding member shall have a second or casting vote; but otherwise decisions of the tribunal shall be by a majority of the members sitting.

(4) The Lord Chief Justice may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under sub-paragraph (1).

(5) The Lord President of the Court of Session may nominate a judge of the Court of Session who is a member of the First or Second Division of the Inner House of that Court to exercise his functions under sub-paragraph (1A)(b).

11

(1) Subject to paragraph 10 above, the Lord Chancellor may from time to time make general rules governing the procedure and practice of the tribunal and generally for carrying into effect the tribunal's duties and powers.

(2) Without prejudice to the generality of sub-paragraph (1) above, rules under that sub-paragraph may provide for--

- (a) the awarding of costs by the tribunal;
- (b) the reference of any question to a member of the tribunal, or to any other person appointed by them, for report after holding a local inquiry;
- (c) the review by the tribunal of decisions previously given by them;
- (d) the number of members of the tribunal to constitute a quorum;
- (e) enabling the tribunal to dispose of any proceedings notwithstanding that in the course of those proceedings there has been a change in the persons sitting as members of the tribunal; and
- (f) the right of audience before the tribunal.

(3) Rules under sub-paragraph (1) above may also, subject to the consent of the Treasury, prescribe the scale of fees for and in connection with proceedings before the tribunal.

12

- (1) The Secretary of State shall give to the tribunal such assistance as the tribunal may reasonably require.
- (2) The Secretary of State shall place at the disposal of the tribunal any information in his possession which he considers will be of assistance to the tribunal in connection with any matter before them, and shall be entitled to appear and be heard in any proceedings before the tribunal.

13

- (1) Subject to sub-paragraph (2) below and to any rules made under paragraph 11 above, the tribunal may sit in any part of Great Britain in such place or places as may be convenient for the determination of the proceedings before them.
- (2) An appeal from the determination of a traffic commissioner for a traffic area in Scotland shall be heard in Scotland.

Appeals

14

- (1) Subject to sub-paragraphs (2) and (3) below, an appeal shall lie in accordance with rules made by the Secretary of State from the tribunal to the Court of Appeal or to the Court of Session.
- (2) No appeal shall lie from the tribunal upon a question of fact or locus standi.
- (3) An appeal shall not be brought except in conformity with such rules of court as may from time to time be made in relation to such appeals by the authority having power to make rules of court for the Court of Appeal or the Court of Session (as the case may be).
- (4) On the hearing of an appeal the Court of Appeal and the Court of Session may draw all such inferences as are not inconsistent with the facts expressly found and are necessary for determining the question of law, and may make any order which the tribunal could have made, and also any such further or other order as may be just.
- (5) The costs of and incidental to an appeal shall be at the discretion of the Court, but neither the tribunal nor any member of the tribunal shall be liable to any costs by reason or in respect of any appeal.
- (6) Subject to sub-paragraph (7) below, the decision of the Court of Appeal or the Court of Session (as the case may be) shall be final.
- (7) Where there has been a difference of opinion between those Courts, either of those Courts in which a matter affected by such a difference of opinion is pending may give leave to appeal to the Supreme Court on such terms as to costs as the Court of Appeal or Court of Session (as the case may be) shall determine.

Exercise of powers by Lord Chancellor

15

The Lord Chancellor shall consult the Secretary of State before exercising any of his powers under paragraph 2 or 3 above.

Annual report

16

The tribunal shall make annually a report of all their proceedings to the Lord Chancellor and it shall be laid before Parliament.

SCHEDULE 5

THE DISABLED PERSONS TRANSPORT ADVISORY COMMITTEE

<Amended by clause 67>

Administration, etc

1

The Secretary of State shall make arrangements for the Committee to be provided with such administrative support and office accommodation as he considers appropriate.

2

(1) The Secretary of State shall provide the Committee with funds with which to pay to their members **such remuneration, and** such travelling and other allowances, and to defray such other expenses in connection with their functions, as he may determine.

(2) **In relation to Scotland, the only remuneration that may be paid under this paragraph is remuneration for the performance of functions which relate to reserved matters (within the meaning of the Scotland Act 1998).**

Constitution and procedure

3

(1) Any person appointed to be a member of the Committee shall hold and vacate office in accordance with the terms of his appointment and shall, on ceasing to be a member of the Committee, be eligible for re-appointment.

(2) Any person so appointed may at any time resign his office by written notice given to the Secretary of State.

4

(1) The Committee shall meet whenever convened by the chairman and at least four times a year.

(2) Without prejudice to the discretion of the chairman to call a meeting whenever he thinks fit, he shall call one when required to do so by any five members of the Committee.

(3) Minutes shall be kept of the proceedings of every meeting of the Committee.

(4) Subject to the preceding provisions of this paragraph, the Committee shall determine their own procedure (including the quorum at their meetings).

5

The Committee may delegate the exercise and performance of any of their functions to such of their sub-committees as they think fit.

6

The validity of any proceedings of the Committee shall not be affected by any vacancy amongst the members, by any defect in the appointment of a member or by any failure to comply with the requirement imposed by section 125(3) of this Act.

<Remaining Schedules omitted as they are unaffected by the Local Transport Bill>