

**BUS SERVICES BILL**  
**SUPPLEMENTARY DELEGATED POWERS MEMORANDUM**  
BY THE DEPARTMENT FOR TRANSPORT

**INTRODUCTION**

1. This Memorandum identifies amendments moved by the Government to the Bus Services Bill at Committee and Report stages in the House of Commons which significantly amend existing powers. These include a duty to issue guidance and three amendments to existing delegated powers in the Bill and further information about these is provided below.
2. In addition, amendment 5 restores a provision that was in the Bill when first introduced and which was discussed in the original Delegated Powers Memorandum and is therefore not dealt with in this Memorandum.
3. In this Memorandum, amendment numbers refer to the list of amendments made by the Government in the Commons which is annexed to the Memorandum.

***Commons amendment numbered 9 to Clause 4 (Secretary of State to issue guidance as to the matters to be taken into account by the franchising authority when selecting a person to act as an auditor and matters to be taken into account by the auditor when forming an opinion as to whether the information relied on and related analysis is of sufficient quality.)***

*Power conferred on:* Secretary of State  
*Power exercised by:* Guidance issued by Secretary of State  
*Parliamentary Procedure:* Not applicable

4. New section 123D of the Transport Act 2000 inserted by Clause 4 of the Bill requires that franchising authorities have to prepare an assessment of the proposed franchising scheme under section 123B, also inserted by Clause 4. As part of that assessment the authority must consider the value for money and affordability of the proposal and compare the making of the proposed scheme against other courses of action, for

example by developing a partnership scheme instead. If the authority or authorities wish to proceed with the proposed franchising scheme, they must obtain a report from an auditor on that assessment.

5. During consideration of the Bill the Government received a number of representations about the practicality of the provisions with respect to auditors including in relation to their independence from local authority, or authorities, considering the franchising scheme and any conflict of interest issues that may arise. The Government believes that the nuances of what would or would not demonstrate independence from the authority are better addressed in guidance than on the face of the Bill or through an exhaustive list of prescriptive criteria set out in regulations. Amendment number 9 to Clause 4 will ensure that the authority or authorities have to take into account any statutory guidance issued by the Secretary of State. Such guidance is not legislation and does not have to be slavishly followed however it will help authorities assess the independence of the auditor taking account of any local factors and without having to follow prescribed criteria.
6. Amendment 9 also ensures that any report that from an auditor about the proposed franchising scheme includes an opinion as to whether the authority, or authorities, have, in relation to its consideration of affordability and value for money, used information and conducted an analysis which is of sufficient quality. We would also like the report to contain the auditor's opinion on whether the franchising authority, or authorities, have had due regard to guidance issued by the Secretary of State in preparing their assessment. Such guidance is not legislation to followed by the auditor, rather it is guidance to which decision maker must have regard.

***Commons amendments numbered 16, 17 and 18 to Clause 18 (Power to require provision of information about English bus services: power to make regulations that would require operators of bus services and local authorities in franchising areas to provide prescribed information about their services.***

*Power conferred on:* Secretary of State

*Power exercised by:* Regulations made by Secretary of State

7. Paragraphs 111 to 116 of the Government's delegated powers memorandum detailed the regulation making powers in new section 141A inserted into the Transport Act 2000 (the 2000 Act) which confer powers to prescribe information requirements that will apply to all operators in the deregulated bus market and to franchising authorities in England except London. The information that could be prescribed under regulations includes information about changes to routes, timetable, fares and tickets and information about the operation of services the services.
8. The Government wants to make route, timetable, ticket, fares and punctuality data "open" so that anyone is free to use it subject, at most, to measures that preserve provenance of the information and integrity of the data. This will enable third parties to use the information to develop journey planning websites and applications for smartphones enabling passengers to have access to better information about bus services.
9. We intend to specify in regulations under this Clause that information should be provided in several phases starting with timetable information, followed by fares data and then real time bus arrival information where that is available. The precise definition of what information will be required in each case and the date by which it is to be provided will be developed through close consultation and discussion with bus operators, LTAs and potential users in parallel with the passage of the Bill.
10. As a consequence of our engagement with industry on the implementation of provisions in this clause, it has become clear that having an up-to-date database which accurately describes and locates bus stops in a common format is fundamental to the production of meaningful journey planning information. The National Public Transport Access Nodes (NaPTAN) database contains a unique ID and exact co-ordinates of every public transport access point in Great Britain, covering bus stops, railway stations, tram stops, ferry terminals and airports. NaPTAN is complemented by the National Public Transport Gazetteer (NPTG) which is a database which describes all the localities in Great Britain.

11. In addition, the Bill currently places a requirement on operators to provide real-time data, through the requirement to provide live information about the operation services. We understand that a number of local authorities have invested in real-time systems, including the equipment installed on buses. As a consequence those local authorities own the real-time information rather than the operator themselves and it may not be possible for the operator to meet its obligations to provide the real time data.
  
12. In order to ensure that key information about stopping places and, where appropriate, real-time information can be required from local authorities amendments 16, 17 and 18 made in the House of Commons will widen the reach of the information requirements so that all English local authorities and not just those which introduce franchising schemes may be required to provide this information.
  
13. The Government is satisfied that these changes to the scope of the regulation making powers does not alter the case for leaving such matters to secondary legislation or the level of Parliamentary scrutiny provided, as set out in the Government's earlier memorandum.

**Department for Transport**

**7 April 2017**