

*These notes refer to the Local Transport Bill [HL]
as introduced in the House of Lords on 7th November 2007 [HL Bill 1]*

LOCAL TRANSPORT BILL [HL]

EXPLANATORY NOTES

INTRODUCTION

1. These Explanatory Notes relate to the Local Transport Bill [HL] as introduced in the House of Lords on 7th November 2007. They have been prepared by the Department for Transport in order to assist the reader of the Bill and to help inform debate on it. They do not form part of the Bill and have not been endorsed by Parliament.

2. The notes need to be read in conjunction with the Bill. They are not, and are not meant to be, a comprehensive description of the Bill. So where a clause or part of a clause does not seem to require any explanation or comment, none is given.

SUMMARY AND BACKGROUND

3. The provisions in the Bill are intended to support the Government's strategy to tackle increasing road congestion and to improve the quality of local bus services. The policy context and related background were set out in the consultation document *Strengthening Local Delivery: the draft Local Transport Bill*, published in May 2007. The Government's response to the consultation is published alongside the Bill, and copies are available from the Department for Transport and at www.dft.gov.uk/localtransportbill.

4. The Bill contains provisions to amend the legal frameworks relating to:

- the responsibilities of local authorities in relation to local transport policies and plans;
- the operation of local bus services and related matters, including provisions relating to traffic commissioners;
- the constitution and functions of Passenger Transport Authorities ("PTAs"), which are renamed as Integrated Transport Authorities ("ITAs");
- the establishment and operation of local and London road user charging schemes (commonly referred to as "local road pricing schemes").

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5. It also contains provision to grant a new framework power to the National Assembly for Wales in the transport field.

Local bus services

Legal background

6. The current legal framework within which local bus services are operated in England and Wales (outside Greater London) is set out in the Transport Act 1985 (“the TA 1985”). In brief, the effect of the provisions contained in this Act was to deregulate the bus industry outside London.

* *Local bus services* are services provided on public service vehicles, on which passengers may travel for distances of less than 15 miles.

Quality partnership and quality contracts schemes

7. Part 2 of the Transport Act 2000 (“the TA 2000”) includes provisions relating to “quality partnership schemes” and “quality contracts schemes”. A quality partnership scheme is a scheme under which:

- a local authority provides specified facilities in their area. Such facilities might include bus lanes or other bus priority measures, or enhanced facilities for passengers at bus stops and bus stations; and
- operators of local services who wish to use such facilities must undertake to provide those services to a particular standard.

8. A quality contracts scheme is a scheme under which:

- the authority determines what local services should be provided in the area to which the scheme relates and any additional facilities or services which should be provided in that area; and
- local services may only be provided in that area in accordance with quality contracts entered into by a local authority with a bus operator following a competitive tendering process. A scheme may comprise one or more contracts relating to services that form part of the overall scheme.

9. A quality contracts scheme therefore has the effect of closing down the deregulated market established under the TA 1985 in the area to which it applies, for the duration of the scheme (maximum of 10 years).

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Voluntary partnership agreements

10. A number of local authorities have entered into agreements with bus operators independently of the statutory provisions contained in the TA 2000. Such voluntary agreements are used as a means of improving the quality of bus services in a particular area, but without the restrictions which are imposed by the statutory schemes. The majority are bilateral agreements between one authority and one operator. Many have been in place since before the TA 2000 provisions on quality partnership schemes were brought into force, while others have been made subsequently in preference to using the statutory route described above.

The Bill

11. The Bill includes measures to:

- create a statutory post of “senior traffic commissioner” and increase flexibility in the deployment of traffic commissioners in England and Wales;
- reform provisions in the TA 2000 relating to quality partnership and quality contracts schemes;
- provide a competition test relating to voluntary partnership agreements;
- strengthen the enforcement powers of the traffic commissioners;
- amend existing legislative provisions relating to the community transport sector;
- enable the establishment of a statutory body to represent the interests of bus passengers; and
- amend a number of other legislative provisions that relate to local public passenger transport services.

* The *traffic commissioners* are appointed by the Secretary of State under section 4 of the Public Passenger Vehicles Act 1981 (“the PPVA 1981”). There is currently a traffic commissioner for each traffic area in Great Britain. Each traffic commissioner has responsibilities relating to the goods vehicle and public service vehicle sectors and the registration of local bus services.

Local transport functions

Legal background

12. At present, responsibility for setting overall strategies for transport services for a particular area in England (outside London and the six metropolitan counties) is the responsibility of the county council or unitary authority, which is also the local highways authority and local traffic authority for that area. Under section 108 of the TA 2000, these

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local transport authorities are required to develop policies relating to local transport facilities and services, and to prepare and publish a local transport plan.

13. In the metropolitan counties outside London (West Midlands, Greater Manchester, Merseyside, South Yorkshire, West Yorkshire and Tyne & Wear) these responsibilities are split. The metropolitan counties have been designated as “passenger transport areas” and a PTA has been established in relation to each of those areas, with responsibility for planning local transport services (jointly with metropolitan district councils) and for procuring public transport services. The metropolitan district councils have responsibility for the local road network as local traffic authorities and local highways authorities.

14. Across England (outside London) the Secretary of State, acting through the Highways Agency, is the highways authority and traffic authority for the strategic road network.

The Bill

15. The Bill amends provisions in Part 2 of the TA 2000 concerning local transport policies and plans. These changes will apply in all local authority areas outside London. The Bill expands the existing duty on local transport authorities to develop policies relating to transport, so that these policies must cover all aspects of transport, rather than the currently more limited requirement relating only to transport facilities and services, and must take the protection and improvement of the environment into account. The Bill also provides that in the six metropolitan counties this duty will lie solely with the Integrated Transport Authority (see below). The Bill also amends the arrangements for preparing and publishing the local transport plans which contain those policies, and removes the need for local transport authorities to prepare a separate bus strategy.

16. The Bill also proposes a means for making changes to existing constitutional arrangements for the discharge of statutory transport functions in local authority areas (“governance”). It changes the name “Passenger Transport Authority” (“PTA”) to “Integrated Transport Authority” (“ITA”), and enables changes to be made to the constitutions and functions of the renamed ITAs. It also includes provisions relating to the establishment of new ITAs, and provision enabling changes to be made to the boundaries of existing integrated transport areas.

Local charging schemes

Legal background

17. Part 3 of the TA 2000 includes provisions relating to local charging schemes in England and Wales. These provisions set out the conditions under which a local authority outside Greater London can set up a charging scheme in relation to roads for which they are the local traffic authority. The Greater London Authority Act 1999 (“the GLA Act 1999”) included powers for Transport for London, the London boroughs and the Common Council to establish charging schemes in their areas. The GLA Act 1999 provides the vires for the London Congestion Charge. The Transport (Scotland) Act 2001 includes provisions relating to charging schemes in Scotland.

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- * A *local traffic authority* is a traffic authority, other than the Secretary of State, which has functions under Part 10 of the Road Traffic Regulation Act 1984.
- * The *Common Council* is the Common Council of the City of London.

The Bill

18. Provisions in the Bill allow ITAs to make a charging scheme jointly with local traffic authorities, provide that local charging authorities will no longer require the approval of the Secretary of State for their schemes, and make a number of other miscellaneous amendments to the provisions of the GLA Act 1999 and the TA 2000.

OVERVIEW OF STRUCTURE

19. The Bill is organised in eight Parts and seven Schedules.
20. *Part 1* contains provisions relating to traffic commissioners.
21. *Part 2* amends Part 2 of the TA 2000, in particular the duties on local transport authorities to develop transport policies and prepare and publish local transport plans and bus strategies.
22. *Part 3* contains provisions relating to local bus services, amending in particular Part 2 of, and Schedule 10 to, the TA 2000.
23. *Part 4* contains a number of general provisions relating to passenger transport, amending various sections of the Transport Act 1968 (“TA 1968”), the PPVA 1981, the TA 1985, the TA 2000 and other enactments.
24. *Part 5* makes provision relating to Integrated Transport Authorities (“ITAs”).
25. *Part 6* amends provisions relating to local and London charging schemes in Part 3 of, and Schedule 12 to, the TA 2000 and Schedule 23 to the GLA Act 1999.
26. *Part 7* contains miscellaneous provisions relating to the powers of the National Assembly for Wales, an amendment to existing provision about the detention of goods vehicles used without an operator’s licence, and the disclosure and use of information about foreign-registered vehicles.
27. *Part 8* contains supplementary provisions.
28. *Schedule 1* substitutes references to “local transport policies” (as defined by a new provision inserted by Part 2) in place of certain references in the TA 2000 to local transport plans or bus strategies.

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29. *Schedule 2* amends existing provisions in Schedule 10 to the TA 2000, which applies a competition test to the exercise of certain functions by local transport authorities. It also inserts a new competition test, applying to voluntary partnership agreements and certain other agreements, and makes specific provision for investigation and enforcement action to be taken by the Office of Fair Trading in relation to such agreements.
30. *Schedule 3* contains provisions to put in place a new enforcement regime for certain public service vehicles operated without a valid operator's licence.
31. *Schedule 4* contains amendments to various enactments, consequential on the provisions in Part 5 under which passenger transport areas and metropolitan county passenger transport authorities are to be known as integrated transport areas and ITAs respectively.
32. *Schedule 5* contains minor and consequential amendments to the TA 2000, relating to provisions in Part 5 that introduce the name "ITA", and in Part 6 that allow ITAs to make local charging schemes jointly with local traffic authorities.
33. *Schedule 6* amends Schedule 12 to the TA 2000, which contains financial provisions relating to charging schemes under Part 3 of that Act, and Schedule 23 to the GLA Act 1999.
34. *Schedule 7* contains repeals relating to Parts 2 to 6 of the Bill.

TERRITORIAL EXTENT

35. Provisions in the Bill extend to England and Wales only, with the exception of certain provisions which also extend, in whole or in part, to Scotland and Northern Ireland.
36. The provisions extending to Scotland are:
- clauses 1 to 6, which amend provisions in the PPVA 1981 relating to traffic areas and traffic commissioners, and create a statutory post of senior traffic commissioner. Its application to Scotland is limited to matters which are not devolved;
 - clause 41 and Schedule 3, which facilitate the detention of certain public service vehicles (PSVs) used without valid PSV operators' licences;
 - clauses 46 and 47(1) to (7), which enable the holders of private hire vehicle (PHV) licences to operate local bus services. These provisions are drafted so as to extend this provision to holders of PHV licences in Scotland;

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- clauses 48 to 52, which make provision relating to permits issued under sections 19 and 22 of the TA 1985 (which exempt the operators of particular community services from certain licensing requirements);
 - clause 59(1) and (2), which makes provision relating to the payment by local councils of subsidy to secure passenger transport services;
 - clause 63, which provides for remuneration to be paid to members of the Disabled Persons Transport Advisory Committee. In relation to Scotland, the provision applies only to matters that are not devolved;
 - clause 65, which provides a power for the Secretary of State to confer certain non-rail functions on the Rail Passengers' Council;
 - clause 106, which provides a power for the Secretary of State to charge a reasonable fee for the provision of information obtained by the Secretary of State in the exercise of any function that relates to reserved matters to charging authorities in relation to a charging scheme made under Part 3 of the Transport (Scotland) Act 2001;
 - clause 109, which inserts a new matter into Schedule 5 to the Government of Wales Act 2006;
 - clause 111, which amends existing provision relating to the detention of certain goods vehicles;
 - clauses 112 and 113, which make provision about the disclosure and use of information obtained by the Secretary of State in relation to foreign registered vehicles;
 - clauses 115 (interpretation), 116 (extent), 117 (commencement) and 118 (short title); and
 - the repeals in Part 3 of Schedule 7 (repeals) relating to sections 22 and 23 of the TA 1985, and clause 114 so far as relating to those repeals.
37. This Bill does not contain provisions that trigger the Sewel Convention in Scotland. Because the Sewel Convention provides that Westminster will not normally legislate with regard to devolved matters in Scotland without the consent of the Scottish Parliament, if there are amendments relating to such matters which trigger the Convention, the consent of the Scottish Parliament will be sought for them.
38. The provisions extending to Northern Ireland are:

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- clause 109, which inserts a new matter into Schedule 5 to the Government of Wales Act 2006;
- clause 112 and 113, which relate to the disclosure of information relating to foreign-registered vehicles; and
- clauses 115 (interpretation), 116 (extent), 117 (commencement) and 118 (short title).

TERRITORIAL APPLICATION: WALES

39. The Bill confers a number of new or expanded powers on the Welsh Ministers, in line with changes being made to certain powers of the Secretary of State in relation to England. In addition, one provision, which relates to the application of revenues from local charging schemes, would replace an existing power for the Welsh Ministers to make regulations with provision on the face of the TA 2000.

40. Table 1 below lists the clauses which *affect the existing powers of, or confer new powers on, the Welsh Ministers*.

Table 1: Clauses which affect the existing powers of, or confer new powers on, the Welsh Ministers

Clause(s)	Subject of clause	Effect on the powers of the Welsh Ministers
Part 3: clause 17	Regulations about certain quality partnership schemes	A new power for the Welsh Ministers to make regulations in respect of quality partnership schemes which specify frequencies, timings or fares.
Part 3: clause 25	Making of a quality contracts scheme	The power for the Welsh Ministers by order to vary a time period stipulated in section 127 of the TA 2000 is extended to other time periods.
Part 3: clause 30	Approval of continuation of a quality contracts scheme	New provisions to allow the continuation of a quality contracts scheme beyond its initial ten year period. For schemes in Wales, the Welsh Ministers will have the power to approve the continuation (except where the continuation is exempt because it meets specified conditions) and to make regulations to prescribe additional circumstances in which a scheme will be an exempt proposal.

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Part 3: clause 33	Variation or revocation of quality contracts scheme	Certain variations of quality contracts schemes are exempted from the requirement to be approved by the Welsh Ministers.
Part 3: clause 35	Regulations about quality contracts schemes	The existing order-making powers of the Welsh Ministers in section 133 of the TA 2000 are extended so that regulations may additionally make provision with respect to the continuation of quality contracts schemes.
Part 3: clause 36	Power to make transitional provision about schemes	A power for the Welsh Ministers to make provision about the letting of subsidy contracts in the transitional period between the making and implementation of a quality contracts scheme.
Part 3: clause 37	Guidance about quality contracts schemes	A power for the Welsh Ministers to issue guidance to local authorities about the performance of their functions in respect of quality contracts schemes.
Part 4: clause 55	Additional sanctions for failures by bus operators	A power for the Welsh Ministers to prescribe additional forms of orders that a traffic commissioner may make under section 155(1A) of the TA 2000.
Part 4: clause 60	Subsidy to secure passenger transport services in Wales	Extension of existing power for the Welsh Ministers to subsidise public passenger transport services to cover standards of service.
Part 6: clause 99	Charges	Charging schemes (including those made by the Welsh Ministers under section 167 of the TA 2000) may impose different charges for different means of recording, administering, collecting or paying the charge.
Part 6: clause 100	Manner of payment of charges in a charging scheme	A new power for the Welsh Ministers to make regulations regulating the manner in which, in certain circumstances, persons may pay road user charges.

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Part 6: clause 101	Suspension of charging schemes	Charging schemes made by the Welsh Ministers under TA 2000 may be suspended in an emergency or for a temporary event.
Part 6: clause 102	Interference with functioning of equipment	An extension to the existing power for the Welsh Ministers, by regulations, to make certain provisions relating to examination of, or entry into, a motor vehicle for certain purposes.
Part 6: clause 103	Use of equipment for charging schemes	A new power for the Welsh Ministers to regulate the manner in which equipment installed as part of a charging scheme is used, supplementing the existing power for them to make regulations to approve standards for such equipment.
Part 6: clause 104	Power to require information	A new power for the Welsh Ministers to direct a local traffic authority in Wales to provide specified information relating to the performance or proposed performance of their functions under Chapter 1 of Part 3 of the TA 2000.
Part 6: clause 105	Information	A new power for the Welsh Ministers to charge a reasonable fee for the supply of information under section 194(1) and (3) of the TA 2000.
Part 6: clause 108 and Schedule 6	Application of revenues from charging schemes	The existing power for the Welsh Ministers to make regulations relating to the use of net proceeds from local charging schemes in Wales (other than during the initial period of an early relevant scheme) is replaced with a requirement that all such net proceeds may only be used to facilitate the achievement of the charging authority's local transport policies.

41. Table 2 below summarises the provisions in the Bill which *have different effect in Wales, as compared to their effect in England* (outside London). Table 2 does not repeat measures set out in Table 1.

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Table 2: Measures which have different effect in Wales, as compared to England (outside London)

Clause(s)	Subject of clause	Effect in Wales
Part 2	Transport policies	The provisions leave existing arrangements in Wales unchanged, except clause 10 (bus strategies no longer required) applies also in Wales.
Part 3: clauses 20 to 25 and 32	Approval of quality contracts schemes and continuation of such schemes, and related appeals	These clauses preserve the existing provisions whereby (i) a scheme in Wales must be approved by the Welsh Ministers; and (ii) there is no right of appeal to the Transport Tribunal in relation to the Welsh Ministers' decisions to approve or reject a scheme.
Part 4: clause 57	Revival of certain powers of PTEs	There are no PTEs in Wales, and so the provisions do not have any application there.
Part 4: clause 58	Subsidy to secure passenger transport services in integrated transport areas	There are no integrated transport areas in Wales, and so the provisions do not have any application there.
Part 4: clause 64	Public Transport Users' Committee for England	This clause has no effect in Wales, where separate arrangements for passenger representation apply.
Part 4: clause 65	Power to confer non-rail functions on the Rail Passengers' Council	The power is limited to functions relating to local bus services and scheduled coach services to the extent that they operate within England. It has no effect in Wales, where separate arrangements for passenger representation apply.
Part 5	Integrated Transport Authorities etc.	There are no ITAs in Wales, and so the provisions do not have any application there.

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Part 6: clauses 90 to 96	Involvement of Integrated Transport Authorities in charging schemes	There are no ITAs in Wales, and so the provisions do not have any application there.
Part 6: clause 97	Removal of requirement for Secretary of State confirmation of charging schemes in England	The clause preserves the existing provision that the order by which a local charging scheme in Wales is made must be approved by the Welsh Ministers.
Part 6: clause 98	Amendment to powers relating to inquiries into local charging schemes	The clause preserves the existing provisions allowing the Welsh Ministers to require a local charging authority to consult on, or to allow the Welsh Ministers to hold an inquiry into, a local charging scheme.
Part 6: clause 108 and paragraph 4 of Schedule 6	Financial provisions relating to road user charging schemes	The amendments to paragraph 10(3) of Schedule 12 to the TA 2000 preserve, in Wales, the existing requirement for the Welsh Ministers to approve a local traffic authority's plans for the application of revenues from a local charging scheme.

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POWERS FOR THE NATIONAL ASSEMBLY FOR WALES

42. Clause 109 grants a new framework power to the National Assembly for Wales by inserting a matter into field 10 (highways and transport) of Schedule 5 to the Government of Wales Act 2006. This is discussed further at the appropriate place under “Commentary” below. The existing power for information obtained by any Minister of the Crown, government department, local authority or other statutory body to be disclosed to charging authorities under Part 3 of the TA 2000 is extended to allow information to be disclosed to the Welsh Ministers in relation to charging schemes established pursuant to an Assembly Measure under Part 3 of the Government of Wales Act 2006 (see clause 110).

APPLICATION: LONDON

43. In relation to many of the matters covered in the Bill, separate provision is made for London by other enactments, including the GLA Act 1999. The following table lists the provisions in the Bill which have application in London.

Table 3: Measures which have application in London

Clause	Subject of clause
Part 1	The traffic commissioners.
Part 3: clause 40 and Schedule 2	Competition scrutiny of functions and agreements relating to buses.
Part 4: clause 41 and Schedule 3	Detention of certain public service vehicles used without valid operator’s licence.
Part 4: clauses 46 and 47	Use of private hire vehicles to provide local services outside London, power for Transport for London to extend the provisions to Greater London and power for Transport for London to make certain regulations in relation to taxis and hire cars.
Part 4: clauses 48 to 52	Vehicles used under permits issued under sections 19 and 22 of the TA 1985.
Part 4: clause 53	Attachment of conditions to related licences (applies in London to a limited extent).

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Part 6: clauses 94 to 96	Involvement of ITAs in charging schemes. These provisions cater for the possibility of a future ITA being established in the vicinity of London, and the local traffic authority and/or the ITA seeking to make a charging scheme jointly with one or more charging authorities in London.
Part 6: clause 99	Charges.
Part 6: clause 100	Supplementary provision as to charging schemes.
Part 6: clause 102	Interference with functioning of equipment.
Part 6: clause 103	Use of equipment for charging schemes.
Part 6: clause 104	Power of national authority to require information from charging authorities.
Part 6: clause 105	Information: England and Wales.
Part 6: clause 107	London charging schemes: 10 year plan for share.
Part 6: clause 108	Application and apportionment of net proceeds of a London charging scheme.
Part 7: clause 111	Vehicles used without operators' licence: power to return detained vehicles
Part 7: clause 112	Disclosure of information relating to foreign-registered vehicles.

COMMENTARY

Part 1: The traffic commissioners

Clause 1: Traffic areas

44. Section 3(2) of the Public Passenger Vehicles Act 1981 (“PPVA 1981”) empowers the Secretary of State by order to vary the extent or number of traffic areas. *Clause 1* inserts new subsections (2A), (2B) and (2C) into section 3 of the PPVA 1981.

45. These new subsections provide that an order made under section 3(2) may include amendments or modifications to any enactment needed to give full effect to any changes to traffic areas in England and Wales.

Clause 2: Traffic commissioners

46. *Subsection (2)* substitutes subsections (1) and (2) of section 4 of the PPVA 1981. The effect is to abolish the existing requirement for a traffic commissioner to be appointed for each traffic area. Instead, the Secretary of State may appoint such number of traffic commissioners for England and Wales as is considered appropriate. However, a single commissioner for the Scottish Traffic Area is retained. New section 4(2) continues the existing provision for traffic commissioners to be appointed by the Secretary of State and provides for them to be known as “traffic commissioners”.

47. *Subsection (4)* inserts new section 4(3A) and (3B) into the PPVA 1981 to define the jurisdiction of traffic commissioners. Traffic commissioners in England and Wales are granted full jurisdiction in respect of all their statutory functions throughout England and Wales, and also in relation to “reserved matters” (within the meaning of the Scotland Act 1998) in the Scottish traffic area. The Scottish Commissioner is granted full jurisdiction in respect of all devolved and reserved statutory functions in the Scottish traffic area, and also in relation to reserved matters in England and Wales.

Clause 3: The senior traffic commissioner

48. The Secretary of State has designated one of the traffic commissioners as senior traffic commissioner. The post currently has no statutory basis and the post holder no statutory powers. *Subsection (1)* inserts new sections 4A to 4C into the PPVA 1981 to put this post on a statutory footing.

49. New section 4B confers powers on the senior traffic commissioner to deploy other traffic commissioners. The effect is that the senior traffic commissioner can require any traffic commissioner or deputy in England and Wales to carry out any function at any place within that jurisdiction, and also to carry out reserved functions in Scotland. The senior traffic commissioner can also require the traffic commissioner for the Scottish Traffic Area, and his deputies, to carry out any reserved function in any place in England and Wales.

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50. New section 4C empowers the senior traffic commissioner, following consultation, to issue guidance and general directions to traffic commissioners about the exercise of any of their functions. Traffic commissioners would be required to act under the general directions of, and to have regard to any such guidance given by, the senior traffic commissioner. This replaces the previous requirement for traffic commissioners to act under the general directions of the Secretary of State (whose power to give such directions is removed). The power of the senior traffic commissioner to issue guidance and directions to the Scottish traffic commissioner extends only to reserved matters.

51. Subsection (6) of new section 4C empowers the Secretary of State to issue guidance to the senior traffic commissioner on the exercise of his functions, and subsection (7) requires the senior traffic commissioner to have regard to any such guidance.

52. The clause also provides for additional remuneration to be paid to the senior traffic commissioner, and includes a transitional provision so that the person designated as senior traffic commissioner prior to the creation of the new statutory post will become the first holder of that office.

Clause 4: Amendments of Schedule 2 to the PPVA 1981

53. This clause amends Schedule 2 to the PPVA 1981, which includes provisions about the terms of service of traffic commissioners, appointment and terms of office of deputy traffic commissioners, and pensions and remuneration.

54. The circumstances in which the Secretary of State can dismiss a traffic commissioner are amended. Currently a traffic commissioner can be dismissed for “inability or misbehaviour”. Under the new provisions the Secretary of State could dismiss a traffic commissioner for misbehaviour or because that traffic commissioner is unable, unwilling or unfit to perform the functions of a traffic commissioner to a satisfactory standard.

55. The clause inserts new provisions relating to the appointment and terms of office of deputy traffic commissioners in England and Wales. The effect is to empower the Secretary of State to appoint such number of deputy traffic commissioners in England and Wales as she thinks fit. Deputy traffic commissioners for England and Wales may be deployed by the senior traffic commissioner to exercise any of their functions in any place in England and Wales, and to exercise functions in relation to reserved matters in the Scottish Traffic Area.

56. The existing powers in paragraphs 3 to 5 of Schedule 2 relating to the appointment and terms of office of deputy traffic commissioners will in future apply in Scotland only, and deputies appointed to the Scottish Traffic Area can exercise their functions in that area only.

Clause 5: Transitional provision for existing traffic commissioners etc

57. This clause contains transitional provisions which will apply to traffic commissioners and deputy traffic commissioners in England and Wales who are in post when these

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provisions come into force. In particular, traffic commissioners already in post will remain on their existing terms and conditions of employment, except that they will be subject to the revised terms on dismissal in the amended paragraph 1 of Schedule 2 to the PPVA 1981 (see clause 4 above). Similar provisions are made for any existing traffic commissioner for the Scottish Traffic Area. As the appointment and terms of office for any deputy traffic commissioner for the Scottish Traffic Area are not affected by these provisions, no transitional arrangements are required.

Clause 6: Consequential amendments

58. This clause empowers the Secretary of State, in secondary legislation, to make any necessary, consequential changes to other legislation (primary and secondary) to give full effect to the new provisions about traffic commissioners. This will be necessary in particular to reflect the new jurisdiction of traffic commissioners and the removal of the link in England and Wales between particular commissioners and specific traffic areas. The power is limited, in so far as it extends to Scotland, to reserved matters. Orders made under this provision will be subject to the affirmative resolution procedure.

Part 2: Transport policies

Clause 7: Local transport policies

59. This clause, together with Schedule 1, inserts the new term “local transport policies” into Parts 2 and 3 of the TA 2000. This is defined as the policies developed under section 108(1)(a) of the TA 2000. Section 108(1)(a), as proposed to be amended by clause 8 of the Bill, will require each local transport authority to develop policies “for the promotion and encouragement of safe, integrated, efficient and economic transport to, from and within their area”.

60. This clause extends to England and Wales.

Clause 8: Nature of duty to develop transport policies

61. This clause amends section 108 of the TA 2000. *Subsection (2)* omits the words “facilities and services” from the duty in section 108(1)(a), as described in relation to clause 7 above. *Subsection (3)* makes consequential changes following on from subsection (2).

62. *Subsection (4)* inserts new subsections (2ZA) to (2ZC) in section 108 of the TA 2000. These subsections create new duties on all local transport authorities: first, to take account of any policies announced by the Government which relate to the protection or improvement of the environment and, secondly, to have regard to any guidance on this subject which the Secretary of State may issue.

Clause 9: Local transport plans

63. This clause amends the duty in sections 108 and 109 of the TA2000 for local transport authorities to produce a local transport plan (“LTP”). *Subsection (1)* provides an LTP in England must be one or more documents containing local transport policies plus proposals for implementing those policies. *Subsection (3)* replaces the obligation on local transport

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authorities to replace their LTPs every five years with a power to replace them as they think fit. *Subsection (4)* inserts new subsections (2A) and (2B) into the TA 2000 which list those authorities which (i) local transport authorities other than ITAs, and (ii) ITAs, must consult in drawing up their LTP and keeping it under review.

Clause 10: Bus strategies no longer required

64. This clause repeals the requirement under the TA 2000 for local transport authorities – including ITAs – to prepare a bus strategy. Following on from this, *subsections (8) to (11)* make consequential amendments to the TA 1968 and the TA 1985.

Clause 11: Development of policies by ITA no longer joint duty with district councils

65. The provisions in clause 11 remove the previous joint duty on PTAs and metropolitan district councils in a PTA area to produce a local transport plan under section 108(1)(a), and place the duty in future solely with the ITA (see clauses 8 and 10). The duty in section 108(1)(b) to carry out functions so as to implement those policies continues to apply to metropolitan district councils, who will also in this respect be subject to the new duty in section 108(2ZB) to have regard to the protection or improvement of the environment.

Part 3: Bus Services

Clauses 12 to 17: Quality partnership schemes

66. Clauses 12 to 17 amend provisions on quality partnership schemes in sections 114 to 123 of the TA 2000. As section 114 stands, before making such a scheme, the local transport authority must be satisfied that it will benefit the users of local bus services by improving the quality of such services, or will reduce or limit traffic congestion, noise or air pollution. These clauses extend to England and Wales.

* A *quality partnership scheme* is a scheme made by a local transport authority under which that authority provides particular facilities at specific locations along the routes used by local bus services, and operators of local services who wish to use those facilities agree to provide services of a particular standard.

Clause 12: Quality partnership schemes

67. Clause 12 amends section 114 of the TA 2000. Section 114(6)(b) of the TA 2000 currently excludes requirements as to frequency or timing of services from the description of a “standard of service”. The effect of *subsection (5)* is to amend section 114(6)(b) so that such requirements may explicitly be included in a quality partnership scheme. *Subsection (6)* inserts new subsections (6A) and (6B) into section 114. The effect of subsection (6A) is to stipulate that requirements as to maximum fares may be specified in a scheme. Subsection (6B) provides that a scheme may include requirements as to frequencies, timings and maximum fares only if there are no “admissible objections” from relevant bus operators (see also clause 17 below). The effect of the amendment in *subsection (7)* (which inserts a new subsection (6C) into section 114) is to enable both facilities and service standards to be phased in on predetermined dates over a period of time, rather than the current procedure under which all facilities and standards must be available when the scheme takes effect.

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68. *Subsection (4)* inserts new subsections (3A) to (3D) into section 114 of the TA 2000. The purpose of these provisions is to enable a local transport authority, in appropriate circumstances, to specify in a quality partnership scheme any restrictions which are to be imposed on the registration of certain local services. Such restrictions can be imposed only where the local authority considers that the provision of additional local services in the area of a quality partnership scheme may be detrimental to the provision of services under that scheme. Any scheme which includes restrictions on the registration of local services must also specify the criteria to be used by traffic commissioners when deciding whether or not to accept an application to register a local service (See also clause 42).

Clause 13: Notice and consultation requirements

69. Clause 13 amends section 115 of the TA 2000 (notice and consultation requirements) to require any notice which is given about proposals to make a scheme to include details of any proposed restrictions on the registration of local services, and the criteria against which any applications to register such services will be judged (see paragraph 68 above).

Clauses 14 to 16: Provisions relating to phased implementation of schemes

70. These clauses make consequential amendments to sections 116 to 118 of the TA 2000 to provide for the phased implementation of quality partnership schemes and the ability to postpone any part of a scheme, not just the whole of it.

Clause 17: Regulations about schemes which specify frequencies, timings or fares

71. This clause amends section 122 of the TA 2000, which makes provision for regulations about quality partnership schemes. The purpose of the amendments is to enable regulations to make specific provisions in respect of quality partnership schemes that include requirements as to frequencies, timings or maximum fares.

72. *Subsection (2)* inserts a new section 122(1)(aa), which enables regulations to make provision with respect to the “content or operation” of such schemes, in addition to “procedure to be followed when making, varying or revoking a quality partnership scheme” (which is provided by the existing section 122(1)(a)). This is to allow regulations to cover matters such as those mentioned in new section 122(3), discussed below.

73. *Subsection (3)* inserts new subsections (3) to (5) into section 122. These new subsections provide that, as regards schemes which include requirements as to frequencies, timings or maximum fares, regulations made under section 122(1)(a) and (aa) may in particular make provision for a number of specified matters.

74. The provisions would enable such regulations, for example, to:

- specify certain circumstances (such as *de minimis* conditions) in which changes to requirements as to frequencies, timings or maximum fares could proceed without

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needing to meet the requirements in section 114(6B) about admissible objections (new subsection (3)(a));

- specify that, where schemes include requirements as to frequencies, timings or maximum fares, they must also include provision about how and when such requirements may or must be set, reviewed and revised (new subsection (3)(b), read with subsection (4));
- specify that requirements as to frequencies, timings or maximum fares may be revised only if there are no “admissible objections” from “relevant operators” (new subsection (3)(c));
- disapply the above requirements in prescribed circumstances where a scheme is subject to postponement under section 117 (new subsection (3)(d));
- define the terms “admissible objection” and “relevant operator” for the purposes of section 114(6B) and section 122(3) (new subsection (3)(e) and (f)); and
- make provision for a third party to determine whether an objection is an “admissible objection” within the meaning set out in regulations (new subsection (3)(g)).

75. The effect of new section 122(5) is to ensure that, where requirements as to frequencies, timings or maximum fares are revised in accordance with provision made in accordance with the new section 122(3)(b) described above, the provisions of section 120 of the TA 2000 (variation or revocation of schemes), which include requirements as to notice and consultation, do not apply.

Clauses 18 to 39: Quality contracts schemes

76. These clauses amend, and insert new provisions in relation to, sections 124 to 134 of the TA 2000, which provide for the making of quality contracts schemes in England and Wales. A quality contracts scheme is a scheme under which the local authority determines the local bus network for the area to which the scheme relates. Where such a scheme is in place local bus services in that area can only be provided under quality contracts (with the exception of services specifically excluded from the scheme by virtue of section 127(4) of the TA 2000). A quality contract is a contract under which the authority grants a particular operator the exclusive right to operate certain services following a competitive tender.

77. The effect of the amendments is to replace the existing requirement that a quality contracts scheme must be the “only practicable way” of implementing the policies in the local authority’s bus strategy with a new set of criteria.

* Section 110 of the TA 2000 provides that a *bus strategy* must be included within a local transport authority’s local transport plan. Clause 10 specifies that a bus strategy is no longer required.

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78. The provisions also abolish the requirement for quality contracts schemes in England to be approved by the Secretary of State; they establish a new type of board to carry out that function. A separate board is to be assembled for each application. There is a right of appeal against decisions of a board to the Transport Tribunal. The amendments also include a number of smaller changes to allow schemes to be implemented in stages, to extend the maximum duration of quality contracts, and generally to allow greater flexibility. A new section is also inserted into the TA 2000 to provide protection of terms and conditions for employees who transfer to a new employer following the making of a quality contract.

79. These clauses extend to England and Wales, although – as noted below – some provisions apply only in relation to schemes in England.

Clause 18: Quality contracts schemes

80. This clause amends section 124 of the TA 2000, which has already been amended by section 39 of the Railways Act 2005 (quality contracts schemes in connection with modification of rail services). Those amendments have not been materially affected by the further amendments in this clause.

81. The new section 124(1)(a) to (e) (substituted by *subsection (2)*) set out the new criteria which the local authority must be satisfied are met before making a quality contracts scheme:

- The scheme must increase the use of local bus services, and bring benefits to people using them through the provision of services of a higher quality.

* *Increase*, in this context, is defined in the new section 124(9B), inserted by *subsection (5)*, to include a reference to reducing, arresting or reversing decline in the use of bus services.

- The scheme must contribute to the implementation of the authority’s local transport policies, rather than just those policies set out in their bus strategy (as now). By virtue of clause 10, local transport authorities in England and Wales will no longer be required to prepare bus strategies; moreover, not all local transport authorities in England are currently required to prepare local transport plans (or bus strategies), by virtue of the Local Authorities’ Plans and Strategies (Disapplication) (England) Order 2005 (SI 2005/157). However, all local transport authorities (including ITAs) will be required to “develop policies for the promotion and encouragement of safe, integrated, efficient and economic transport to, from and within their area” (section 108(1)(a) of the TA 2000 as amended by clause 8). The requirement that a quality contracts scheme must contribute to the implementation of “local transport policies” is therefore applicable in every case. The effect would be to enable a scheme to be made for purposes not limited to matters currently included in the authority’s bus strategy. For example, such purposes might relate to the introduction of a demand management scheme (such as a local charging scheme made under Part 3 of the TA 2000), or to the provision of better integration with rail or light rail services.

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* *Local transport policies* are defined in the new section 108(5) of the TA 2000, inserted by clause 7.

- The scheme must also (as now) implement the policies in a way that is economic, efficient and effective.
- Any adverse effects of the scheme on operators will be proportionate generally to the well-being of persons living or working in the area.

Clause 19: Notice and consultation requirements

82. This clause amends section 125 of the TA 2000 (notice and consultation requirements). Subsection (1) of section 125 is amended so as to require an authority which is proposing to make a quality contracts scheme to issue a consultation document. The document must include a statement by the authority of the reasons why they are satisfied that the criteria set out in the new section 124(1) will be met, and a statement on funding.

Clause 20: Approval of proposed scheme

83. This clause amends section 126 of the TA 2000 (approval of proposed scheme) to provide for quality contracts schemes in England to be approved by a new approvals board for England, rather than the Secretary of State. In Wales such schemes will continue to be approved by the Welsh Ministers. The amendments made by this clause, and clauses 21 to 24, have no effect in respect of the procedure in Wales.

Clause 21: Approvals boards for England

84. This clause inserts a new section 126A into the TA 2000, which sets out the constitution of each of the approvals boards for England. Any such board will be chaired by a traffic commissioner (designated by the senior traffic commissioner), with two other members drawn from a panel of persons appointed by the Secretary of State. Each board is to be supervised by the Council on Tribunals. Where possible, the commissioner designated to chair the board will be the one with best knowledge of the area in question.

* The post of *senior traffic commissioner* is established by clause 3, described above.

* The *Council on Tribunals* is a permanent standing advisory body operating under the Tribunals and Inquiries Act 1992. There are some 80 or so tribunals under its oversight, and it must be consulted on the procedural rules for those tribunals.

Clause 22: Practice and procedure of approvals boards for England

85. This clause inserts a new section 126B into the TA 2000 empowering the Secretary of State to make procedural rules governing the approvals board for England. Such rules may include the procedure for making applications to the board and for the acknowledgement of such applications, the procedure for notifying the relevant parties that an application has been lodged, and the timescales within which such parties may make representations to the board. Regulations may also prescribe the period within which the board should normally take its

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decision. The board is placed under a duty to take reasonable steps to reach its decision within that time and, if it is unable to do so, it must prepare and publish a statement of its reasons.

86. The new section 126B also provides for the Secretary of State to issue guidance to the board on the carrying out of its functions, to which the board must have regard.

Clause 23: Inquiries by approvals boards for England

87. This clause inserts a new section 126C into the TA 2000 to empower the approvals board for England to hold inquiries. The provisions are similar to those in section 54 of the PPVA 1981 which empower a traffic commissioner to hold inquiries. All such inquiries must be held in public, but the clause provides that information relating to a business may be supplied in confidence, with a penalty for improper disclosure of that information.

Clause 24: Appeals relating to applications for approval: areas in England

88. This clause inserts two new sections, 126D and 126E, into the TA 2000 providing for appeals against decisions of any approvals board for England to be determined by the Transport Tribunal. A further right of appeal (on points of law) is provided from the Tribunal to the Court of Appeal.

* The constitution, powers and proceedings of the *Transport Tribunal* are set out in Schedule 4 to the TA 1985. These include general powers to award costs and to charge fees.

Clause 25: Making of scheme

89. This clause contains amendments to section 127 of the TA 2000, many of which are consequential on preceding provisions of the Bill. The amendments provide that the date on which a scheme can be made (in England) must be deferred until any appeal under the sections inserted by clauses 21 to 24 has been disposed of. The effect of the amendment in *subsection (5)* is to enable different parts of a quality contracts scheme to come into effect on different dates (see also clauses 26 and 27). Under the existing provisions in the TA 2000, all parts of the scheme must come into operation on the same date.

Clause 27: Effect of scheme: different operational dates and excepted services

90. This clause amends section 129 of the TA 2000 in two respects. First, it makes changes consequential on the amendment in *subsection (5)* of clause 25. Secondly, *subsection (3)* amends section 129(2) so as to add further cases in which section 129(1) (which disapplies provisions on the registration of local services) does not apply. The circumstances in which such a registration may be accepted by the traffic commissioner are set out in new section 6B of the TA 1985 (as inserted by clause 43 below).

Clause 28: Extension of maximum period of quality contracts

91. This clause amends section 130 of the TA 2000 so as to extend the maximum duration of a quality contract from five years to ten (which, subject to clause 29, is also the maximum duration of the scheme itself). Ten years is also the maximum duration specified for public

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service contracts for coach and bus services prescribed by article 4.3 of the Regulation of the European Parliament and of the Council on public passenger transport services by rail and by road and repealing Council Regulations (EEC) Nos 1191/69 and 1107/70 (publication in the Official Journal pending).

* A *quality contracts scheme* may include one or more individual *quality contracts*.

Clause 29: Continuation of scheme for further period

92. This clause inserts a new section 131A into the TA 2000 setting out the procedure that must be followed if an authority wants a quality contracts scheme to continue, with or without modification, beyond the initial period of not more than ten years. Under the existing legislation, it is not possible to continue a scheme, and a new scheme must be made instead.

93. The provisions require the authority to publish a consultation document, including a statement as to the effectiveness of the scheme to date as well as the case for continuing it in operation for a further period of up to ten years. A proposal to continue a scheme is made subject to the same consultation procedure and approvals and appeals process as a new scheme, with appropriate modifications (see clauses 30 and 32) though in some circumstances the approval process would not apply (see the notes on those clauses below).

94. The amendments also provide that, if a consultation document is published not less than twelve months before the scheme is due to expire, an existing scheme will continue, without modification, if it would otherwise have expired before the continuation has been finally approved (and any appeal disposed of).

Clause 30: Approval of continuation of scheme

95. This clause inserts a new section 131B into the TA 2000. It provides for the approvals process described in section 126 of the TA to apply to any application to continue a scheme once it has come to an end, with the modifications set out in this clause, except in certain circumstances. The clause sets out in detail the conditions that need to be satisfied if the scheme is to be exempt from the approval procedure, and imposes a requirement on the local authority to publicise that they propose to proceed on that basis that it is an exempt proposal. In particular, a continuation scheme which does not extend to any additional services that were previously deregulated will not need to be submitted to the approval board or the Welsh Ministers.

Clause 31: Appeals relating to exempt proposals for continuation of a scheme

96. This clause inserts a new section 131C into the TA 2000. It provides a right of appeal to the Transport Tribunal against a decision by a local transport authority to continue in force a quality contracts scheme in a case which, by virtue of section 131B (see clause 30), is exempt from the requirement to obtain approval from the approvals board (in England) or the Welsh Ministers (in Wales) (an “exempt proposal”). All those who were consulted on the proposal have the right to appeal, either against the decision that it is an exempt proposal or

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against the decision to continue the scheme. It also specifies what actions the Tribunal may take following such an appeal.

Clause 32: Appeals relating to continuation of scheme

97. This clause inserts a new section 131D into the TA 2000. It provides for appeals against a decision by the approvals board (in England) regarding the continuation of a quality contracts scheme under section 131B (see clause 30 above). This clause extends to England only.

Clause 33: Variation or revocation of scheme

98. This clause amends section 132 of the TA 2000, which sets out a procedure for varying or revoking a quality contracts scheme. Most significantly, certain minor variations which would not increase the scope of a scheme will not require the approval of the approvals board in England or the Welsh Ministers.

Clause 34: Appeals relating to exempt variations of scheme

99. This clause inserts a new section 132A into the TA 2000 to provide a procedure to appeal to the Transport Tribunal against a scheme variation that is (or is claimed to be) exempt from the requirement for approval by the approvals board (in England) or the Welsh Ministers (in Wales) (an “exempt variation” – see clause 32). Any person who was consulted on the variation may appeal either against the decision itself or against the decision that it is an exempt variation. The clause also sets out what action the Transport Tribunal may take following such an appeal.

Clause 35: Regulations about schemes

100. This clause amends section 133 of the TA 2000, which is a provision enabling regulations to be made on various matters relating to quality contracts schemes. Additional provisions will enable regulations about continuation of schemes, and about the procedure for determining applications for approval of schemes.

101. No regulations have been made to date under section 133 of the TA 2000.

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Clause 36: Power to make transitional provision about schemes

102. This clause amends section 134 of the TA 2000, which enables regulations to be made concerning transitional provision in connection with the coming into operation of quality contracts schemes, or the variation or ending of such schemes. The most significant amendment is that which will enable transitional provisions to modify the effect of sections 89 to 92 of the TA 1985 (obligation to invite tenders for subsidised services other than quality contracts). The amendments also clarify that any transitional provision concerning the coming into effect of a scheme can only have effect from the date on which a scheme has been made.

Clause 37: Guidance about quality contracts schemes

103. This clause inserts a new section 134A into the TA 2000 making provision for the appropriate national authority in England and Wales to issue guidance about the performance by local transport authorities of their functions in respect of quality contracts schemes. Local authorities are required to have regard to any such guidance in the exercise of those functions.

* The *appropriate national authority* is the Secretary of State (in England) or the Welsh Ministers (in Wales).

Clause 38: Quality contracts: application of TUPE

104. This clause inserts a new section 134B into the TA 2000 to provide that the transfer of an employee of an existing provider of local services (on a deregulated basis) to a new employer under a quality contract will be regarded as a “relevant transfer” for the purposes of the Transfer of Undertakings (Protection of Employment) Regulations 2006.

Clause 39: Power to make traffic regulation orders

105. This clause inserts a new subsection (3B) into section 1 of the Road Traffic Regulation Act 1984. Subsection (3A) of that section enables a local traffic authority in England and Wales to make a traffic regulation order (under that section) in respect of a road for which the Secretary of State is, or the Welsh Ministers are, the traffic authority, with their consent, if that order is required to provide facilities under a quality partnership scheme. The effect of the amendment is to extend this power to traffic regulation orders providing facilities pursuant to a quality contracts scheme.

* A *traffic regulation order* is an order made by a traffic authority to regulate use of a road. It may be made to avoid danger to road users, to prevent damage to the road, to prevent or facilitate the use of the road by certain classes of road user, to preserve amenities, or for environmental reasons.

Clause 40: Competition scrutiny of functions and agreements relating to buses

106. This clause substitutes a new section for section 153 of the TA 2000. Section 153 introduces Schedule 10 to that Act, which applies a competition test to the exercise of functions by a local transport authority relating to quality partnership schemes, ticketing schemes and subsidised local services. The effect of the amendment is to apply a separate competition test to voluntary partnership agreements and certain matters related to quality partnership schemes and voluntary partnership agreements (as defined in the substituted

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section 153). *Subsection (3)* provides for the amendment of Schedule 10 to the TA 2000 by Schedule 2 to the Bill.

107. *Schedule 2* amends existing provisions in Schedule 10 to the TA 2000, and also inserts additional paragraphs which will form a new Part 2 of that Schedule. The amendments to what is now Part 1 of Schedule 10 include a repeal of the provisions under which an application may be made to the Office of Fair Trading for a decision as to whether the exercise of certain local authority functions meets the competition test.

108. Part 2 applies a modified form of the competition test in the Competition Act 1998 to voluntary partnership agreements, and to agreements which support voluntary partnership agreements or quality partnership schemes, where the object or effect of those agreements is the restriction, prevention or distortion of competition in the provision of bus services.

109. The agreements to which the test will apply are:

- agreements between the local authority and more than one operator (“voluntary multilateral agreements”);
- agreements between the local authority and one operator (“voluntary bilateral agreements”) if, when taken together with one or more other such agreements, they would have an effect on competition; and
- agreements between undertakings, decisions by associations of undertakings or concerted practices made in connection with either of the types of agreement described above or a quality partnership scheme, and which would have an effect on competition.

110. The Schedule provides that where an agreement is subject to this competition test, the prohibition in Chapter 1 of the Competition Act 1998 on agreements or concerted practices that would prevent, restrict or distort competition does not apply. The modified competition test applies in place of the provisions of the 1998 Act. The Schedule also applies investigation and enforcement powers of the OFT as set out in the Competition Act 1998, with the exception of the power to impose financial penalties, to relevant agreements which do not meet the competition test in Part 2 of this Schedule. The provision includes power for the Secretary of State to modify the application of relevant investigation and enforcement powers in the Competition Act 1998 in respect of agreements subject to this revised competition test. That power could not, however, be used to empower the OFT to impose financial penalties.

111. This clause extends to England and Wales.

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Part 4: General provisions relating to passenger transport

Clause 41: Detention of certain PSVs used without PSV operators' licences

112. Schedule 1A to the Goods Vehicles (Licensing of Operators) Act enables regulations to be made permitting an authorised person to detain a heavy goods vehicle and its contents in circumstances where the person using that vehicle did so in contravention of the requirement to have an operator's licence for that or any other vehicle. The Goods Vehicles (Enforcement Powers) Regulations 2001 came into force on 4 January 2002.

113. *Subsection (1)* makes a corresponding provision for the unauthorised use of passenger vehicles adapted to carry more than eight passengers as public service vehicles (PSVs). It inserts a new section 12A into the PPVA 1981, which gives effect to a new Schedule 2A to that Act (inserted by *subsection (2)*). The content of new Schedule 2A to the PPVA 1981 is contained in Schedule 3 to the Bill. The purpose of new Schedule 2A is to empower the Secretary of State to make regulations to facilitate the detention of certain PSVs used in contravention of the requirement to hold a valid PSV operator's licence. These provisions are based on the ones which already apply to goods vehicles, as described above.

114. This clause and the Schedule extend to Great Britain.

Clauses 42 to 45: Registration of local services

115. These clauses amend the provisions in the TA 1985 relating to the registration of local services (as defined in section 2 of that Act) and the determination of traffic regulation conditions. They extend to England and Wales.

Clause 42: Determination of applications for registration where restrictions in force

116. Clause 42 amends section 6 of the TA 1985 (registration of local services) to give effect to new section 6A of that Act which it inserts. That section makes provision in respect of applications to register local services in areas where a quality partnership scheme has been made, and that scheme includes restrictions on the registration of local services (see the note in respect of clauses 12 and 13 in paragraphs 67ff. above).

117. The new section 6A prescribes the procedure to be followed when such an application is received. The traffic commissioner is required to give notice of the application to relevant local authorities and operators. Where authorities or operators make representations in response to that notice the traffic commissioner must decide, after following the prescribed procedure, whether the effect of accepting the application would be detrimental to the quality partnership scheme. In so doing, he must apply the registration criteria contained in the scheme. Where the traffic commissioner decides that such a registration would be detrimental, he may refuse the application, require the applicant to amend it or, where the applicant has not already done so, require the applicant to give an undertaking under section 118(4) of the TA 2000 (effect of scheme) that he will provide services in accordance with standards specified in the scheme. The provisions provide a right of appeal to the Transport Tribunal against the decision of the traffic commissioner.

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Clause 43: Applications for registration where quality contracts scheme in force

118. This clause amends section 6 of the TA 1985 (registration of local services) to give effect to new section 6B of that Act which it inserts. That clause provides for the registration of services within the area of a quality contracts scheme in certain circumstances, as an exception to the general rule (contained in section 129(1)(a) of the TA 2000), that such services cannot be registered in those areas.

119. Section 6B provides that where an operator wishes to provide, in the area of a quality contracts scheme, a service otherwise than under a quality contract he may apply to register that service with the traffic commissioner. The traffic commissioner on receiving the application must consult the authority or authorities that made the quality contracts scheme. The traffic commissioner may not accept the registration unless, within a prescribed time, the authority certifies that the provision of the proposed service will not have an adverse effect on the services provided under quality contracts.

Clause 44: Traffic regulation conditions for anticipated traffic problems

120. Clause 44 amends section 7 of the TA 1985 (application of traffic regulation conditions to local services subject to registration under section 6). Under the existing legislation a traffic commissioner can impose traffic regulation conditions on the providers of local services when asked to do so by the traffic authority in relation to a particular traffic problem. Such conditions can be imposed only where the traffic commissioner is satisfied that they are necessary in order to prevent danger to road users, reduce severe traffic congestion, or to reduce or limit noise or air pollution.

121. The effect of the amendment is to extend the circumstances in which a traffic authority may ask the traffic commissioner to exercise those powers to situations where that authority reasonably foresees that a traffic problem is likely to arise.

Clause 45: Transport Tribunal to decide appeals against traffic regulation conditions

122. This clause amends section 9 of the TA 1985, which provides for a right of appeal against actions by a traffic commissioner in determining, or refusing to determine, traffic regulation conditions under section 7 of the TA 1985. The appeal currently lies to the Secretary of State and the effect of this amendment is to transfer it to the Transport Tribunal. This is consistent with the appeal process in respect of other decisions of the traffic commissioners. The provisions in Schedule 4 to the TA 1985 (constitution, powers and proceedings of the Transport Tribunal) will apply to such appeals, including the right of appeal against a decision of the Transport Tribunal to the Court of Appeal on a point of law.

Clause 46: Use of private hire vehicles to provide local services

123. This clause amends section 12 of the TA 1985, which currently enables holders of a taxi licence to apply to the traffic commissioner for a restricted Public Service Vehicle

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(“PSV”) operator’s licence – referred to as a “special licence”. A special licence entitles the operator to use taxis to provide local bus services – which have to be registered with the traffic commissioner. The effect of the amendment is to enable the holders of private hire vehicle (“PHV”) licences similarly to apply for a special licence in order to use PHVs to provide local bus services – which also have to be registered with the traffic commissioner. The amendment allows PHVs operating in this way to pick up passengers at bus stops as provided for in the route registration, rather than having to be pre-booked through an operator.

124. The clause extends to Great Britain. However it will apply (i.e. have effect) in London only if Transport for London (“TfL”) makes a decision that it should do so and makes an order under section 13A.

* A *taxi licence* is a licence granted under section 6 of the Metropolitan Public Carriage Act 1869 (in London), or section 37 of the Town Police Clauses Act 1847 (in the rest of England and Wales), or section 10 of the Civic Government (Scotland) Act 1982 (in Scotland). The driver can accept immediate hirings by standing at ranks or by being hailed in the street; pre-bookings can also be arranged.

* A private hire vehicle licence is a licence granted under section 7 of the Private Hire Vehicles (London) Act 1998 (in London – should TfL make an order under section 13A to provide for this), or section 48 of the Local Government (Miscellaneous Provisions) Act 1976 (in the rest of England and Wales), or section 10 of the Civic Government (Scotland) Act 1982 (in Scotland). Private hire vehicles must be pre-booked.

Clause 47: Application of certain provisions about taxis and hire cars to London

125. This clause amends section 13 of the TA 1985 (provisions supplementary to sections 10 to 12) and inserts a new section 13A (application of sections 10 to 13 to London). This allows for differentiation between the section 12 provision as it applies in London and as it applies in the rest of Great Britain.

126. Section 13 of the TA 1985 is amended to include a definition of “appropriate authority”. This is to identify TfL as being responsible in London for making regulations under section 12 of the TA 1985 and amending the codes in respect of both taxis and PHVs for the purposes of sections 10 to 13 of the TA 1985, and the Secretary of State as being responsible for the same elsewhere in Great Britain.

127. Section 13A contains a power for TfL to by order apply section 12 of the TA 1985 to PHVs in London should it so wish.

128. *Subsections (1) to (7)* of this clause extend to Great Britain (although sections 10 and 11 of the TA 1985, which are referred to, do not extend to Scotland).

Clauses 48 to 52: Vehicles used under permits

129. These clauses amend sections 19 to 23 of the TA 1985, which enable certain voluntary bodies to operate public service vehicles without a PSV operator’s licence (which would otherwise be required under section 12 of the PPVA 1981).

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130. Section 19 of the TA 1985 enables permits to be granted to educational, religious, social welfare and other bodies. The effect of a permit is that the body does not need a PSV operator's licence to operate services for members of the body. Members of the general public may not be carried on such services. Section 22 of the same Act enables permits to be granted, under certain conditions, for the provision of local services for the general public.

131. Permits for "small buses" (as defined in section 19(1) of the TA 1985) may be granted either by the traffic commissioners or by bodies designated by order under section 19(7) of that Act. Bodies so designated include local authorities and a number of national non-Governmental organisations.

132. These clauses extend to Great Britain.

Clauses 48 and 49: Permits in relation to use of vehicles by educational and other bodies

133. The effect of clause 48 is to remove the current restriction which prevents the use of PSVs with fewer than nine seats under a permit issued under section 19 of the TA 1985. It also makes a small change to the order-making power for designated bodies so that an order may require them to keep records of permits as well as make returns. Clause 49 makes consequential changes to sections 20 and 21 of the TA 1985.

Clause 50: Relaxation of rules relating to community bus services

134. This clause amends sections 22 and 23 of the TA 1985. The effect of *subsections (1) and (2)* is to enable large buses (defined as those capable of carrying in excess of 16 passengers) to be used to provide community transport services. The effect of *subsections (3) and (4)* is to remove the current prohibition on the drivers of such services from being paid.

Clause 51: Power to limit permits under section 19 or 22 of TA 1985 to 5 years

135. Under the TA 1985, permits granted under section 19 or 22 remain in force indefinitely until surrendered or revoked. The effect of this clause (which inserts a new section 23A into the TA 1985) is to enable a date to be specified in regulations after which all such permits will be granted for a specified period, not exceeding 5 years. Such regulations may also provide for all permits granted before that date, and which were therefore issued on an indefinite basis, to be revoked. Holders of such permits would be able to apply for new time-limited permits to replace those revoked.

Clause 52: Traffic commissioners to keep records about such permits

136. This clause amends section 126 of the TA 1985 (application of sections 52 and 56 (records of licences) of the PPVA 1981) to require traffic commissioners to keep records both of permits granted by them and copies of permits submitted to them by designated bodies. It amends provisions already requiring them to keep records of other documents issued under the TA 1985.

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Clauses 53 to 56: Services not operated as registered etc.

137. The effect of these clauses is to strengthen the enforcement powers of the traffic commissioners with particular reference to punctuality of registered local bus services. These clauses extend to England and Wales.

Clause 53: Attachment of conditions to related licences

138. This clause amends section 26 of the TA 1985 (conditions attached to PSV operator's licence) which empowers a traffic commissioner to attach conditions to the licences of operators who engage in certain conduct, such as failing to comply with certain requirements applying to local bus services or failing to take the necessary steps to maintain their vehicles in a fit and serviceable condition. Such conditions may prohibit the operator from using vehicles to provide specified local services, or prevent him from providing any local services.

* The *requirements applying to local bus services* (outside London) include that a local service has been registered under section 6 of the TA 1985, that the registered particulars (including the route and timetable) have been complied with, and that the standards required under a quality partnership scheme have been complied with.

139. The amendments in *subsections (1) to (6)* of this clause would enable a traffic commissioner to attach such conditions to any other licence held by that operator (by directing the traffic commissioner for the traffic area in which that licence is held to do so), or to the licence of another operator that is connected with the operator in default (for example, a subsidiary of the same holding company). A traffic commissioner who is given a direction by another commissioner must attach the condition unless he considers there is a good reason not to do so. The amendments also enable a condition to be attached either indefinitely or for a specified period of time.

140. *Subsections (7) to (9)* amend subsections (5) and (6) of section 26 of the TA 1985, which allow a traffic commissioner to attach a condition to a licence to restrict the vehicles which a PSV operator may use under that licence to particular vehicles specified in a condition. This provision applies to PSV operators generally, not just to operators of local services. These amendments also enable such conditions to be attached to licences held in other traffic areas by the same operator and to licences of other subsidiary companies.

Clause 54: Powers of traffic commissioners where services not operated as registered

141. This clause introduces a new power under which, where a traffic commissioner considers that action taken, or not taken, by a local traffic authority might have affected bus punctuality, he can investigate that performance and recommend remedial measures to both the operator and the traffic authority to try to improve punctuality.

142. The clause inserts new sections 27A and 27B into the TA 1985 to give new powers to the traffic commissioners to investigate poor punctuality. In particular a commissioner may require a local traffic authority to provide any specified information connected with any aspect of their network management duty under Part 2 of the Traffic Management Act 2004

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and to attend any inquiry he holds into an operator's performance. (Section 27 of the TA 1985 requires the traffic commissioner to hold an inquiry, if so requested by the operator, before attaching any conditions to the operator's licence under section 26 of that Act.) The commissioner may prepare a report setting out such remedial measures (for implementation by either operators or the local traffic authority) as he considers necessary to improve performance. The new section 27A(6) enables him to send the report to relevant persons and authorities (in particular the appropriate national authority) and, if he sees fit, to publish the report.

* The *appropriate national authority* is the Secretary of State (in England) or the Welsh Ministers (in Wales).

Clause 55: Additional sanctions for failures by bus operators

143. This clause amends section 155 of the TA 2000, which enables the traffic commissioner to impose financial penalties on operators who fail to operate local services satisfactorily. The amendments would empower the traffic commissioner, either as an alternative or in addition to a fine, to make an order requiring the operator to spend a specified sum of money on improving specified local services, or requiring the operator to compensate the passengers on such services. Compensation may take the form of free or reduced price travel for a period of time.

Clause 56: Operational data

144. This clause amends section 155 of the TA 2000 to enable a traffic commissioner to impose sanctions for a failure to comply with requirements about the provision of information in accordance with regulations made under section 6 of the TA 1985. It also amends the regulation-making powers in section 6 of the TA 1985 (registration of local services) so that regulations requiring operators to keep records or provide information may impose restrictions to prevent the misuse of such records or information. The regulations may make failure to observe the restrictions a criminal offence with a maximum penalty not exceeding level 4 on the standard scale.

Clause 57: Revival of certain powers of PTEs

145. This clause amends section 10(1) of the TA 1968, which specifies the powers of PTEs. The section originally included powers for PTEs to carry passengers by road (paragraph (i)) and to let passenger vehicles on hire (paragraph (viii)). These two powers were disappplied (along with section 24(2) of the TA 1968) by orders made under section 60(5) of the TA 1985.

146. *Clause 57* would revive the power in an amended paragraph (viii) for the specific purpose of enabling PTEs to purchase buses to hire out to operators who provide local services by contract, either in pursuance of section 9A of the TA 1968 (see note on clause 58 below) or under a quality contract. The clause revokes the existing orders so far as they disapply paragraph (viii) of section 10(1) of the TA 1968. It also repeals paragraph (i) of

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section 10(1) of the TA 1968, section 24 of the TA 1968 and provisions in section 60 of the TA 1985 which are now spent.

147. This clause extends to England and Wales, but since there are no passenger transport areas in Wales, it has no application there.

Clause 58: Subsidy to secure passenger transport services in integrated transport areas

148. This clause amends section 9A of the TA 1968, which sets out the general functions of Passenger Transport Authorities (to be renamed “Integrated Transport Authorities” by the Bill) and Passenger Transport Executives (“PTEs”). Section 9A(4) empowers a PTE to enter into agreements in order to secure the provision of passenger transport services where the service would not otherwise be provided. The effect of this clause is to empower a PTE to enter into such agreements also in cases where the service would not otherwise be provided “to a particular standard”. *Subsection (3)* inserts a definition of “standard”, which includes the frequency or timing of the service, the days or times of day when the service may be provided, and the vehicles used to provide the service.

149. This clause extends to England and Wales, but since there are no passenger transport areas in Wales, it has no application there.

Clause 59: Subsidy to secure passenger transport services in other areas

150. This clause amends section 63 of the TA 1985 to empower authorities other than PTEs in the way described above under clause 58. It extends to England and Wales.

Clause 60: Subsidy to secure passenger transport services in Wales

151. This clause amends section 7 of the Transport (Wales) Act 2006, which enables the Welsh Ministers to secure the provision of any public passenger transport service which they consider appropriate for the purpose of meeting any public transport requirements within Wales which would not otherwise be met. It empowers the Welsh Ministers in the way described under clause 58 above.

Clause 61: Extension of maximum length of subsidised services agreements

152. This clause amends section 90(1) of the TA 1985 to increase the maximum length of a service subsidy agreement which is made in accordance with section 89 of that Act from five to eight years. It extends to England and Wales.

Clause 62: Removal of certain disabilities and requirements for consent

153. This clause repeals various provisions in Part 4 of the TA 1985 which relate to public transport companies and their directors.

* A *public transport company* is defined in section 72 of the TA 1985.

154. *Subsection (2)* repeals the provisions in section 74 of the TA 1985 which require a director of a public transport company who is a councillor of the authority that owns the

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company to obtain dispensation from the Secretary of State (in England) or Welsh Ministers (in Wales) in order to take part in, or vote on, matters relating to the activities of the company.

155. *Subsection (3)* repeals sections 75(3), 79(3) and 79(7), and some words in section 79(8), of the TA 1985 so as to remove the requirement for local authorities to seek consent of the Secretary of State before exercising the powers contained within these sections. These are powers to dispose of public transport companies owned by the authorities, or shares or significant assets of the companies, as well as the power to provide financial backing for the establishment and operations of public transport companies.

156. The repeal of these requirements extends to England and Wales.

Clause 63: The Disabled Persons Transport Advisory Committee: remuneration

157. The Disabled Persons Transport Advisory Committee (“DPTAC”) was established under section 125 of the TA 1985 to consider any matter relating to the needs of disabled persons in connection with public passenger transport and to give advice to the Secretary of State on such matters where appropriate.

158. The original terms of the TA 1985 restricted payments to DPTAC members to travelling and other allowances and payments to defray other expenses incurred in connection with DPTAC functions.

159. *Subsection (2)* of clause 63 amends paragraph 2 of Schedule 5 to the TA 1985 to enable DPTAC to remunerate its members for carrying out Committee work.

160. DPTAC is a cross-border public authority within the meaning of section 88(5) of the Scotland Act 1998. *Subsection (3)* of clause 63 ensures that DPTAC members are not remunerated for performing functions relating to devolved matters.

Clause 64: The Public Transport Users’ Committee for England

161. This clause inserts two new sections into the TA 1985. The new provisions are inserted after section 125 of the Act, which already provides for the establishment of the Disabled Persons Transport Advisory Committee.

162. New section 125A empowers the Secretary of State by order to establish a body to be known as the Public Transport Users’ Committee for England. Section 125A(3) provides that the order may make provision about the status and membership of the Committee and prescribe other details about its proceedings and conduct of business.

163. New section 125B sets out the functions of the Committee. In particular it provides that the Committee may consider and make recommendations to the Secretary of State about any matter relating to such public passenger transport services or facilities in England as may be prescribed by the Secretary of State. This will enable the Secretary of State to determine

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the scope of the powers of the Committee by prescribing the services and facilities, or the description of services and facilities, in relation to which the Committee is to exercise its functions.

164. Orders made under these sections are subject to the affirmative resolution procedure.

Clause 65: Power to confer non-rail functions on the Rail Passengers' Council

165. This clause inserts a new section 19A into the Railways Act 2005. Section 19A(1) empowers the Secretary of State by order to confer functions on the Rail Passengers' Council relating to local bus services or domestic coach services to the extent that they operate in England. Subsection (2) enables such amendments to be made to provisions of any Act as may be needed as a consequence of making such provision. Subsection (4)(b) empowers the Secretary of State to alter the number of members which can be appointed by the Secretary of State to the Rail Passengers' Council so as to enable members to be appointed to represent bus and coach passengers. This will not affect members appointed by the Scottish Ministers, the Welsh Ministers or the London Assembly.

166. Subsection (5) provides that the power does not extend to altering the functions of the Rail Passengers' Council so far as they relate to the provision of railway passenger services or station services.

167. Orders made under the new section are subject to the affirmative resolution procedure.

Part 5: Integrated Transport Authorities etc.

168. The provisions in this Part extend to England and Wales, but, because they relate to passenger transport areas, in practice they have effect only in relation to areas in England.

Clause 66: Change of name of passenger transport areas and PTAs

169. This clause provides for the passenger transport areas created under the Transport Act 1968 – that is, the six metropolitan counties in England – to be known in future as “integrated transport areas”. It also provides for the Passenger Transport Authorities established under the Local Government Act 1985 (one for each passenger transport area) to be known as “Integrated Transport Authorities” (“ITAs”). The clause also provides that any reference to “passenger transport area” or “Passenger Transport Authority” in existing legislation should be read respectively as a reference to “integrated transport area” or “Integrated Transport Authority”.

Clause 67: Power to establish a new ITA

170. This clause provides that, subject to certain conditions, the Secretary of State can make orders establishing new integrated transport areas in England and creating ITAs for those areas. *Subsections (2) and (3)* provide that the Secretary of State can make an order to establish an ITA only where a scheme has been published under the provisions of clauses 68 and 69 or a direction under clause 69 to prepare and publish a scheme has not been complied

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with. *Subsection (8)* provides that where an order is made creating a new ITA, it must provide that a majority of the ITA's members must be chosen from amongst the elected members of the local authorities that make up the integrated transport area.

Clause 68: Authorities' review: new ITA

171. This clause provides that any two or more of the types of authorities listed in *subsection (1)* may review the effectiveness and efficiency of transport within a geographical area the extent of which complies with *subsections (2) and (3)*. The effect of this is that the area under review must consist of two or more local authority districts. If that review concludes that the establishment of an integrated transport area and ITA would improve the exercise of statutory transport functions in the area and the effectiveness and efficiency of transport in the area, then those authorities must publish a scheme for the establishment of the area and an ITA for it. *Subsection (5)* provides that the area of the proposed integrated transport area can be all or part of the area covered by the review or can also cover one or more additional counties or districts not covered by the review, as long as the authorities listed in *subsection (6)* have given their consent.

Clause 69: Secretary of State's power to direct a review: new ITA

172. This clause provides that the Secretary of State can direct any two or more of the authorities listed in *subsection (2)* to carry out a review of the effectiveness and efficiency of transport in the whole or part of their combined areas. *Subsection (4)* provides that such a direction may also require the authorities to produce a scheme to establish a new ITA. *Subsection (6)* lists the types of issues which a direction may require to be covered by a review and any scheme.

Clause 70: Authorities' review of arrangements

173. This clause provides that any one or more of the types of authorities listed in *subsection (2)* may review the effectiveness and efficiency of transport within one or more existing integrated transport areas. If that review concludes that the exercise of statutory transport functions in those areas would be improved by the making of an order under clauses 72 to 78, changing the way in which statutory transport functions in that area are exercised, then those authorities must publish a scheme proposing how this should be done.

Clause 71: Secretary of State's power to direct a review of arrangements

174. This clause provides that the Secretary of State can direct any combination of the following to carry out a review:

- existing ITAs;
- county or district councils in an existing integrated transport area; or
- county or district councils which are not yet in an integrated transport area but could be included in one by virtue of a boundary change (see clause 77).

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175. The Secretary of State can direct that the review should consist of any of the matters covered by clauses 72 to 78, namely:

- the constitutional arrangements (for example the membership) of the ITA;
- the delegation of functions from herself or individual local authorities to an ITA (or to a local transport authority for areas where there is no longer an ITA);
- conferring on an ITA a power to give directions to local authorities on the exercise of their highways and traffic authority powers; and
- changing the boundaries of, or dissolving, an integrated transport area.

176. *Subsection (6)* provides that such a direction can also require the directed body or bodies to prepare and publish a scheme containing proposals which would require the making of an order by the Secretary of State to enable them to be implemented (for instance setting out how many representatives each authority in a transport area would have on the ITA).

177. *Subsection (8)* sets out certain requirements which the direction can also impose, including the timetable for the review and scheme, and certain issues which must be addressed in each of them (for instance, what would be the membership of the ITA).

Clause 72: Constitutional arrangements

178. This clause allows the Secretary of State to make an order about the constitutional arrangements of an individual ITA.

179. *Subsection (2)* defines what is meant by “constitutional arrangements”. An order could, for instance, cover the membership of that ITA, executive arrangements within an ITA or the functions of any “executive body” of the ITA. (Under the existing legislation, each PTA has a Passenger Transport Executive, which is the executive body responsible for implementing the policies of the PTA.)

180. *Subsection (3)* provides that where an order is made in relation to the constitution of an existing ITA and that order includes provision about the ITA’s membership, it must provide that a majority of the ITA’s members must be appointed from amongst the elected members of the local authorities for the integrated transport area (e.g. councillors of metropolitan district councils).

181. *Subsection (5)* defines what is meant by “executive arrangements” within the ITA, for instance the establishment of an executive and the arrangements by which that executive can exercise the powers of the ITA. These provisions mirror the provision made for local authorities by Part II of the Local Government Act 2000.

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182. *Subsection (7)* provides that an order cannot provide that anyone other than the ITA has responsibility for agreeing its budget, so this function could not be delegated to an executive of the ITA.

Clause 73: Delegation of functions of the Secretary of State

183. This clause provides that the Secretary of State can make an order delegating any of the Secretary of State's own functions (for instance in relation to strategic roads or rail), to:

- an ITA; or
- where an existing ITA is being dissolved or its boundary being contracted, a designated local transport authority.

184. However, the clause does not allow the delegation of the Secretary of State's powers to make secondary legislation or to set fees and charges.

Clause 74: Delegation of local authority functions

185. This clause allows the Secretary of State to include provision in an order to make any function of a county council, unitary authority or metropolitan district council exercisable by:

- an ITA; or
- where an existing ITA is being dissolved or its boundary being contracted, a designated local transport authority.

186. This power applies to such functions only in so far as they relate to the integrated transport area (or to a former such area), and only if the Secretary of State thinks it appropriate for the ITA or other authority to exercise that function.

Clause 75: Conferral of a power to direct

187. This clause enables the Secretary of State to make an order which confers a power to direct on (i) an ITA, or (ii) where an existing ITA is being dissolved or its boundary being contracted, a designated local transport authority.

188. Where the power to direct is conferred on it, an ITA or designated local transport authority would be able to issue a direction to a metropolitan district council, county council or unitary authority as to how the latter should exercise its functions as a local highways authority or local traffic authority. These powers include for instance the ability to install traffic management measures (such as bus lanes), traffic calming measures and the carrying out of maintenance works on their roads.

189. *Subsection (6)* provides that such directions can apply controls in the case of specific roads or descriptions of roads (for instance, major bus routes). *Subsection (7)* makes clear that

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directions cannot apply to roads covered by concession agreements under the New Roads and Street Works Act 1991.

190. *Subsections (8) and (11)* list the matters to which a direction can relate, which are:

- the provision of information about the exercise of local highways authority or local traffic authority powers;
- that the directed body must do certain things or obtain consent before using those powers;
- imposing conditions on how the directed body can make use of its powers in a particular case;
- that the directed body must not make use of certain of its powers in certain circumstances; and
- that the directed body must make use of its powers in a specific case, provided that the directing authority meets the cost of compliance with that direction.

Clause 76: Contravention of an order under clause 75

191. This clause provides that if a body to which the Secretary of State has granted the power to direct under clause 75 issues a direction to a local highway authority or local traffic authority and the authority to which the direction is issued fails to comply with it – for instance it fails to take the necessary action to enable a bus lane to be installed on one of its roads – then the authority which issued the direction can take the necessary steps to rectify matters. This includes the ability to take over the relevant powers of the directed authority for the purposes of putting matters right and to recoup the costs of doing so from that authority.

Clause 77: Changing the boundaries of an integrated transport area

192. This clause allows the Secretary of State to make an order changing the boundary of an existing integrated transport area. This would enable the order to either add to or take away from an ITA area the whole of the area covered by:

- a county council;
- a shire district council;
- a unitary authority; or
- a metropolitan district council.

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193. Where the order removes an authority's territory from an ITA area, it must also designate an authority to take over as the local transport authority for that territory. The order may also transfer the former ITA's other functions – in so far as they relate to that territory – to that authority

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Clause 78: Dissolution of an integrated transport area

194. This clause allows the Secretary of State to make an order to dissolve an integrated transport area and abolish its ITA. However, where she does so the order must also designate one or more authorities – for instance the metropolitan district councils within the boundaries of the integrated transport area – to take over as the local transport authorities for the former area. The order may also transfer the former ITA’s other functions to these authorities.

Clause 79: Orders under clauses 72 to 78

195. This clause sets out several constraints on the Secretary of State’s power to make orders under clauses 72 to 78, including:

- before making the order she must consult representatives of the bodies listed under clauses 70(2) & 71(2) and any other person she considers relevant (*subsection (4)*);
- an order dissolving an ITA cannot be made unless a majority of the metropolitan district, county and unitary councils whose territory comprises that passenger transport area have agreed to the dissolution (*subsection (6)*); and
- an order changing the boundary of an ITA area cannot be made unless each of the metropolitan district, county and unitary councils whose territory is either added to or excluded from that passenger transport area have agreed to the boundary change (*subsection (8)*).

Clause 80: Incidental etc. provision

196. This clause provides that the Secretary of State may make such incidental, consequential, transitional or supplementary provision as she deems necessary in support of an order made under Chapter 2 of Part 5 of the Bill. For instance, the order could provide for the transfer of property and assets to an ITA in consequence of an order under clause 73 or 74 which has delegated certain functions to an ITA.

197. *Subsection (4)* also allows the Secretary of State to make orders making such amendments, repeals or revocations to other primary and subordinate legislation as appear to her to be appropriate in consequence of making an order, for instance to reflect the fact that a new ITA has been established.

Clause 81: Procedure for orders under this Chapter

198. This clause provides that any order made under Chapter 2 of Part 5 would be a statutory instrument and subject to affirmative resolution in each House of Parliament.

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Clause 82: Further provision about directions

199. This clause provides that directions given by the Secretary of State must be in writing. Their contents can also be varied or revoked by further directions.

Clause 83: Guidance

200. This clause provides that the Secretary of State can issue guidance about anything which could be done by an authority under Chapter 2 of Part 5. Authorities must have regard to this guidance in carrying out their reviews.

Clause 84: Change of name of ITA

201. This clause provides that an existing ITA can make a resolution to change its name. *Subsection (2)* sets out conditions which must be followed in making that resolution. The ITA must notify the Secretary of State that it has changed its name. The latter can also direct the ITA that it must publish this notification and in what manner.

Clause 85: Amendment of power to reorganise functions

202. Section 42 of the Local Government Act 1985 allows the Secretary of State to make orders providing, amongst other things, for the dissolution of a passenger transport area or removing the territory of one or more metropolitan district councils from that passenger transport area. Clauses 77 and 78 provide revised powers to dissolve such transport areas or amend their boundaries. Given that, this clause repeals the provisions in the Local Government Act 1985.

Clause 86: Power to promote well-being

203. ITAs operate within a framework laid down by statute. They have no powers to act other than where they are expressly or impliedly authorised by law to do so. There is a range of statutory duties which they are required to fulfil, and a wider range of permissive powers enabling them to undertake defined activities if they so wish.

204. This clause provides ITAs with a power to take any steps which they consider likely to promote or improve the economic, social or environmental well-being of their local community. These powers have already been granted to local authorities by means of Part 1 of the Local Government Act 2000. This clause would allow ITAs to undertake a wide range of activities for the benefit of their local area and to improve the quality of life of local residents, businesses and those who commute to or visit the area.

205. *Subsection (3)* provides that this power enables ITAs to work in partnership with other bodies. For example, it allows ITAs to assist other statutory bodies to discharge their functions, or to exercise those functions on their behalf. *Subsections (6) and (7)* enable an ITA to delegate its power to take action under these well-being powers to a PTE or other executive body created by an order under this Part.

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Clause 87: Limits on power to promote well-being

206. *Subsection (1)* limits the power established in clause 86 by preventing a ITA from taking any action that is prevented by a statutory prohibition, restriction or limitation. *Subsection (2)* prevents ITAs from using the well-being power in clause 86 to raise money. *Subsection (3)* allows the Secretary of State to prevent one or more ITAs from using the power to do anything which she specifies by order that they should not do, subject to the consultation requirements in *subsection (5)*.

207. *Subsection (7)* permits the Secretary of State to issue guidance to ITAs on the exercise of the power, subject to the consultation requirements in *subsection (8)*. *Subsection (10)* provides that any order made under the preceding subsections will be a statutory instrument subject to the affirmative resolution procedure.

Clause 88: Power to amend or repeal enactments

208. Clause 86 provides ITAs with a broad power to act. They will be able to use the power except where there are specific prohibitions, restrictions or limitations in other legislation. Clause 88 allows the Secretary of State, by order, to amend, repeal, revoke or disapply any such enactment which obstructs ITAs from taking steps to promote the well-being of their areas. This power could be exercised in relation to one or more ITAs.

209. *Subsection (5)* provides that any order made under *subsection (1)* is a statutory instrument subject to the affirmative resolution procedure.

Clause 89: Procedure for orders under clause 88

210. This clause sets out the procedure to be followed by the Secretary of State in making orders under clause 88. It provides for detailed scrutiny of any such orders. Before laying any orders, the Secretary of State is required to consult representatives of local government and others. The Secretary of State must make available to Parliament the results of that consultation, together with an explanation of the purpose of the order.

Part 6: Local and London charging schemes

Clause 90: Power of ITAs to make charging schemes

211. This clause provides that a charging scheme under Part 3 of the TA 2000 may be made jointly by an ITA and one or more eligible local traffic authorities. An eligible local traffic authority is one which is either in the ITA's area, adjoins the ITA's area, or adjoins an area which adjoins the ITA area. Such a scheme is referred to as a "joint local-ITA charging scheme".

212. The clause also allows a charging scheme to be made jointly between a ITA, one or more eligible local traffic authorities and one or more London traffic authorities. Such a scheme is referred to as a "joint ITA-London charging scheme".

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213. An ITA will not be able to make either a joint local-ITA charging scheme or a joint ITA-London charging scheme except jointly with at least one eligible local traffic authority.

214. Because ITAs are established only in England, this clause and clauses 91 to 96 have no application to Wales.

Clause 91: Local charging schemes to implement policies of ITAs

215. This clause amends section 164 of the TA 2000 so that a local charging scheme which is made by one local traffic authority acting alone, and which has effect wholly within an integrated transport area, can be made only if it directly or indirectly facilitates the achievement of the local transport policies of the ITA.

* Local transport policies are defined in section 108(5) of the TA 2000, inserted by clause 7, as explained above.

Clause 92: Joint local charging schemes to implement policies of ITAs

216. This clause amends section 165 of the TA 2000 so that where a local charging scheme is made jointly by two or more local traffic authorities, and has effect wholly or partly within an integrated transport area, it can be made only if it directly or indirectly facilitates the achievement of the local transport policies of the charging authorities and the local transport policies of the ITA for that integrated transport area.

Clause 93: Joint local-ITA charging schemes

217. This clause inserts a new section 165A in the TA 2000. This new section specifies that a joint local-ITA charging scheme can be made only in respect of roads for which any of the charging authorities is the traffic authority, and if at least one of the roads is within the integrated transport area of the relevant ITA.

218. The new section 165A also provides that a joint local-ITA charging scheme can be made only if it directly or indirectly facilitates the achievement of the local transport policies of the charging authorities, including the ITA.

Clause 94: Joint local-London charging schemes to implement policies of ITAs

219. This clause amends section 166 of the TA 2000 so that a joint local-London charging scheme that has effect partly within an integrated transport area may be made only if it directly or indirectly facilitates the achievement of the local transport policies of the charging authorities, including the local transport policies of the ITA, and the policies and proposals set out in the Mayor's transport strategy. As with the equivalent provision in section 165 as amended by clause 92, the last of these three requirements applies even though, in a joint local-London scheme, the ITA is (by definition) not a charging authority.

* A joint local-London charging scheme is a scheme that is made jointly by a non-metropolitan local traffic authority and a London traffic authority.

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- * The Mayor's transport strategy is the transport strategy prepared and published by the Mayor of London under section 142 of the Greater London Authority Act 1999.

Clause 95: Joint ITA-London charging schemes

220. This clause inserts a new section 166A in the TA 2000. The new section specifies that a joint ITA-London charging scheme can be made only if:

- all of the roads included within the scheme have one of the charging authorities as their traffic authority;
- the scheme includes roads in relation to which a London traffic authority may impose a charge under Schedule 23 to the GLA Act 1999; and
- at least one of the roads included within the scheme is within the integrated transport area of the relevant ITA.

221. The new section 166A also provides that a local charging scheme may be made jointly by one or more local traffic authorities, an ITA and one or more London traffic authorities only if it directly or indirectly facilitates the achievement of the local transport policies of the charging authorities (which include the ITA), and the policies and proposals set out in the Mayor's transport strategy.

Clause 96: Consequential amendments

222. This clause introduces Schedule 5, which makes consequential amendments resulting from the introduction of powers to allow ITAs to be party to a joint charging scheme. This includes provision for revenues from a scheme to be apportioned to the ITA.

Clause 97: Abolition of requirement for confirmation of English schemes

223. This clause amends section 169 of the TA 2000, so as to remove the requirement for the Secretary of State to approve a local charging scheme in England.

224. These amendments preserve the existing requirement in the TA 2000 for local charging schemes in Wales to be approved by the Welsh Ministers.

Clause 98: Abolition of power to require consultation or inquiries for English schemes

225. This clause amends section 170 of the TA 2000. Its effect is to remove the power for the Secretary of State to hold an inquiry in relation to a proposed local scheme in England or to require a local authority to consult on a proposed charging scheme. It does not affect the existing powers, also contained in section 170, for local authorities to decide for themselves to consult on or hold inquiries into such schemes.

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226. The amendments also preserve the existing provisions in the TA 2000 for the Welsh Ministers to hold an inquiry into a local charging scheme in Wales, or to require a local authority to consult on such a scheme.

Clause 99: Charges

227. This clause amends section 171(5) of the TA 2000 and paragraph 10(4) of Schedule 23 to the GLA Act 1999, which specify a number of examples of how a charging scheme can impose different charges for different cases.

228. The amendments provide that, in addition to the cases already specified in each provision, local authorities may vary charges according to the methods or means of recording, administering, collecting or paying the charge. This could, for example, allow different rates to be applied where a road user chooses to have his charges recorded automatically by means of different technologies, or to pay by different means (such as a pre-pay account or direct debit).

Clause 100: Supplementary provision as to charging schemes

229. *Subsection (1)* amends section 172 of the TA 2000. It allows the appropriate national authority by means of regulations to require schemes to provide that road users may choose to pay charges in a specific manner, and (where the road user so chooses) to require the charging authority to collect charges in a specified manner. It also enables the appropriate national authority to regulate any arrangements made by the charging authority with other schemes or with other third parties for charges to be paid and collected. Regulations made under this clause could, for example, make provisions so that a road user could register with one charging scheme, install any appropriate equipment and make arrangements for payment in a particular way. The road user could then choose for these arrangements also to apply to one or more additional charging schemes, so that all his payments were processed in that fashion.

230. *Subsection (7)* makes equivalent provision in Schedule 23 to the GLA Act 1999, in relation to London.

231. *Subsections (3), (5) and (6)* amend section 172 of the TA 2000 and Schedule 23 to the GLA Act 1999 so as to provide that a road in London may be made subject to charges by more than one charging authority at a time, provided the Greater London Authority has given its consent.

Clause 101: Suspension of charging schemes

232. This clause inserts a new section 172A into the TA 2000, to allow for a charging authority to suspend the operation of a charging scheme, in whole or in part, where there is an emergency or to allow for a temporary event to take place. *Subsection (2)(a)* provides that the maximum possible duration of suspension in an emergency is 30 days. Where the suspension is to allow for a temporary event to take place, *subsection (2)(b)* means that the suspension can only be for the duration of the event and any time to set up before, and clear up after, the event. *Subsection (3)* details the respects in which a scheme may be partially suspended.

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Subsections (4) and (5) require that notice of any suspension must be published and detail what is required. Under *subsection (6)* the duration of a suspension in an emergency must be reviewed and may be altered.

Clause 102: Interference with functioning of equipment

233. *Subsection (1)* amends section 173 of the TA 2000 to make it an offence to interfere with the functioning of any equipment used for, or in connection with, a charging scheme. *Subsection (2)* amends section 174 to allow the appropriate national authority to make regulations permitting the examination of a vehicle to determine whether the functioning of the equipment has been interfered with.

234. *Subsections (3) to (5)* amend paragraphs 25 and 26 of Schedule 23 to the GLA Act 1999 to make similar provisions in relation to London.

Clause 103: Use of equipment for charging schemes

235. *Subsection (2)* amends section 176 of the TA 2000 to allow the appropriate national authority in England and Wales to regulate the manner in which equipment installed as part of a charging scheme is used. This supplements the existing power to make regulations to approve standards for such equipment. Regulations made under the new section 176(2)(b) could, for example:

- specify standard data formats so that equipment installed or provided by one charging scheme is compatible with similar equipment installed or provided by another;
- specify unique numbering systems for items of equipment, to avoid duplication of identification numbers between different schemes; or
- set common standards for data encryption and security.

236. The effect of *subsection (3)* is to prevent the use of equipment in connection with a charging scheme other than in accordance with regulations made under the new section 176(2)(b).

237. *Subsections (4) to (8)* amend paragraph 29 of Schedule 23 to the GLA Act 1999. The amendments to paragraph 29(1) allow the Greater London Authority to make directions relating to the use of equipment in connection with charging schemes made under that Act. The insertion of paragraph 29(3A) and (3B) allows the Secretary of State to give notice to the Greater London Authority that its directions regarding the use of equipment in connection with a charging scheme in London are incompatible with regulations made under the new section 176(2)(b) of the TA 2000, and that this incompatibility is detrimental to persons resident in England outside Greater London. It also provides that, where such notice has been given, the equipment may no longer be used in connection with a charging scheme except with the permission of the Secretary of State.

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Clause 104: Power of national authority to require information from charging authorities

238. *Subsection (1)* inserts a new section 177A in the TA 2000. The new section allows the appropriate national authority in England and Wales to require information from a local traffic authority or an ITA relating to an existing or proposed charging scheme. This information can be required in a specified period, and must be information that the authority have in their possession or can be expected to obtain.

239. *Subsection (2)* inserts a new paragraph 34B in Schedule 23 to the GLA Act 1999. This new paragraph allows the Secretary of State to require information to be provided, under the same conditions, by Transport for London, a London borough council or the Greater London Authority.

Clause 105: Information: England and Wales

240. *Subsections (1) to (5)* amend section 194 of the TA 2000.

241. Section 194(1) currently allows the disclosure of information to charging authorities only in relation to existing schemes. The effect of the amendment to section 194(1) which is made by *subsection (2)* is to allow information obtained by Ministers, Government Departments, Welsh Ministers or a local authority also to be disclosed to a local traffic authority or ITA in relation to a proposed charging scheme. *Subsection (3)* makes a corresponding amendment to the power in section 194(2) for local traffic authorities and ITAs to use in relation to a proposed charging scheme information it has obtained from its exercise of other functions.

242. *Subsection (5)* allows the Secretary of State or the Welsh Ministers to charge a reasonable fee for supplying information under section 194 of the TA 2000. Where the traffic authority or ITA has asked the Secretary of State to obtain information from registration authorities overseas, with a view to disclosing that information under *subsections (1) and (3)*, the Secretary of State may charge a reasonable fee for obtaining that information or for seeking to obtain it.

243. *Subsections (6) to (9)* make equivalent provision in paragraph 34A of Schedule 23 to the GLA Act 1999.

Clause 106: Information: Scotland

244. *Subsection (1)* allows the Secretary of State to charge a reasonable fee in respect of the cost of supplying information to a Scottish charging authority in relation to a scheme that is made under Part 3 of the Transport (Scotland) Act 2001 or any person with whom the authority has entered into arrangements under section 61(b) of that Act.

245. *Subsection (2)* limits the information to which subsection (1) refers to information obtained by the Secretary of State in the exercise of any function that relates to reserved matters (within the meaning of the Scotland Act 1998).

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Clause 107: London charging schemes: 10 year plan for share

246. This clause amends paragraphs 19 to 24 of Schedule 23 to the GLA Act 1999 so that the approval of the Secretary of State is no longer required for charging authorities' ten year general plans and four year programmes for the application their share of revenues from a London charging scheme.

Clause 108: Other amendments relating to schemes under Part 3 of TA 2000

247. This clause introduces Schedule 6, which makes amendments to Schedule 12 to the TA 2000 (financial provisions relating to road user charging and workplace parking levy schemes) and to Schedule 23 to the GLA Act 1999 (road user charging).

248. Paragraph 8 of Schedule 12 is amended and paragraph 9 is repealed. The effect is that all the net proceeds of all local charging schemes are to be used for local transport purposes, rather than enabling net proceeds in some circumstances to be applied as specified by the appropriate national authority.

249. Paragraphs 10 and 11 are amended to require a detailed programme for the application of the net proceeds of a charging scheme to be produced every five years from the date on which the scheme comes into force, rather than linking the timing of the production of the detailed programme to the timing of the production of the local transport plan.

250. Paragraph 10(3) is amended so as to remove the requirement for the Secretary of State to approve a charging authority's general plans and specific programmes for the application of the net proceeds of a charging scheme in England before the relevant scheme order can come into force. This amendment does not have effect in relation to charging schemes in Wales, thus preserving the existing requirement for approval of such plans and programmes by the Welsh Ministers.

251. Paragraph 12 is amended to remove the Secretary of State's power to make regulations determining the application of proceeds by London traffic authorities from a joint London-local scheme. Instead, the proceeds will be applied in the same way as they would be in a scheme made under Schedule 23 to the GLA Act 1999.

252. Paragraph 13 is amended so that all proceeds of a trunk road charging scheme made by virtue of section 167(2)(b) of the TA 2000 are available only for application by the Secretary of State or Welsh Ministers for the purpose of directly or indirectly facilitating the achievement of any policies or proposals relating to transport.

253. Paragraphs 16 and 17 of Schedule 23 to the GLA Act 1999 are amended to the effect that all the net proceeds of all London charging schemes are to be used for relevant transport purposes, rather than enabling net proceeds in some circumstances to be applied as specified by the appropriate national authority.

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254. Paragraph 18 of Schedule 23 to the GLA Act 1999 is amended to allow the Secretary of State to share in revenues from a charging scheme in London which includes a trunk road.

Part 7: Miscellaneous provisions

Clauses 109 and 110: Trunk road charging schemes in Wales

Clause 109: Powers of the National Assembly for Wales

255. Section 94 of the Government of Wales Act 2006 provides that a provision of an Assembly Measure is within the legislative competence of the National Assembly for Wales if it relates to (or is incidental or consequential on provision that relates to) one or more of the matters specified in Schedule 5 to that Act. The list of twenty fields in which the Assembly currently exercises functions is set out in Part 1 of Schedule 5, and each field will be divided into matters. Assembly Measures may include any provision that could be made by Act of Parliament, subject to specific restrictions set out in Part 2 of Schedule 5.

256. Clause 109 amends Schedule 5 to insert a matter into field 10 (highways and transport). This matter will allow the Assembly to pass an Assembly Measure containing provision for and in connection with the making, operation and enforcement of schemes that impose charges in respect of the use or keeping of motor vehicles on Welsh trunk roads (which are defined as those roads for which the Welsh Ministers are the traffic authority). The new matter does not enable such an Assembly Measure to make provision about traffic signs, apart from provision about the placing and maintenance of such signs.

257. Any Assembly Measure would be able to make provision about the purposes for which the proceeds of charges are to be applied. A Memorandum was also published alongside the Bill that explains the policy intent in more detail.

Clause 110: Information

258. Clause 110 replicates the provisions of section 194 of the TA 2000 (as amended by clause 105 of this Bill) in respect of a trunk road charging scheme or proposed such scheme which is made by or under an Assembly Measure.

259. The clause allows information obtained by Ministers, Government Departments, local authorities or other statutory bodies to be disclosed to the Welsh Ministers in relation to a trunk road charging scheme or proposed such scheme. *Subsection (2)* allows any information that has been or could be disclosed to the Welsh Ministers under *subsection (1)* to be disclosed to any person with whom the Welsh Ministers have entered into charging scheme arrangements. *Subsection (3)* provides that such information must only be used in connection with Welsh trunk road charging schemes.

260. *Subsection (5)* allows the Secretary of State to charge a reasonable fee for supplying information under subsection (1) or (2). Where the Welsh Ministers have asked the Secretary of State to obtain information from registration authorities overseas, with a view to disclosing that information under subsection (1) or (2), the Secretary of State may charge a reasonable fee for obtaining that information or for seeking to obtain it.

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Clause 111: Vehicles used without operator's licence: power to return detained vehicles

261. Clause 111 amends paragraph 8 of Schedule 1A to the Goods Vehicles (Licensing of Operators) Act 1995 to bring it in line with paragraph 8 of new Schedule 2A to the PPVA 1981 (as inserted by clause 41).

Clause 112: Disclosure of information relating to foreign-registered vehicles

262. This clause inserts section 49A into the Road Safety Act 2006. The new section allows the Secretary of State to disclose information, derived from a register of vehicles maintained in a country or territory outside the UK, to the list of people and for the purposes specified at *subsection (3)*. The effect of *subsection (4)* is to allow the Secretary of State to charge a reasonable fee in respect of the cost of obtaining, or seeking to obtain, the information and for supplying information. *Subsection (5)* provides that this section does not affect any other power of the Secretary of State to disclose information.

Clause 113: Use of information relating to foreign-registered vehicles

263. This clause inserts a new section 49B into the Road Safety Act 2006. The new section allows the Secretary of State to use the information to which clause 112 applies for the purposes set out in *subsection (2)*. The information can be used to:

- carry out vehicle identity checks (allowed by virtue of the regulations made under section 22A(2) of the Vehicle Excise and Registration Act 1994);
- to check records of examinations of goods and other vehicles as maintained under section 45(6B) or 49(3A) of the Road Traffic Act 1988;
- to promote compliance with test certificates under section 47 or 53 of the Road Traffic Act 1988; and
- to trace non-resident parents (within the meaning of the Child Support (Information, Evidence and Disclosure) Regulations 1992).

FINANCIAL EFFECTS

264. Any additional net costs to central government arising from the provisions of the Bill are expected to be modest in scale, and capable of being met from within overall Departmental Expenditure Limits.

265. The Bill would provide various new or amended powers for local authorities. If those authorities consider that exercising these powers is the best way to address their local transport priorities, the extent of any cost implications (positive or negative) will depend on the nature of their specific proposals.

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PUBLIC SERVICE MANPOWER

266. Provisions in the Bill are not expected to have an appreciable impact on staffing requirements within central government.

267. As with financial effects (discussed above), the extent of any manpower implications for local authorities will depend on whether, and if so how, they propose to exercise any of the powers contained in the Bill.

EUROPEAN CONVENTION OF HUMAN RIGHTS

268. Section 19 of the Human Rights Act 1998 requires the Minister in charge of a Bill in either House of Parliament to make a statement before Second Reading about the compatibility of the provisions of the Bill with the Convention rights (as defined by section 1 of that Act).

269. Lord Bassam of Brighton has made the following statement:

“In my view the provisions of the Local Transport Bill are compatible with the Convention rights.”

Quality Contracts Schemes

270. One area where Convention rights may be engaged is in respect of quality contracts schemes. This is because where a quality contracts scheme is in place it is for the local authority to determine what local bus services should be provided in the area to which the scheme relates. Once a scheme has been made local services can only be provided in that area under a quality contract made under that scheme (with the exception of any services expressly excluded from the scheme). Article 1 of Protocol 1 (right to peaceful enjoyment of possessions) is engaged to the extent that such a scheme suspends the de-regulated bus market in that area for the period of the scheme.

271. The TA 2000 already empowers local authorities to make quality contracts schemes. The current legislation requires the local transport authority, before making a quality contracts scheme, to be satisfied that the scheme is the “only practicable way” to implement the policies set out in the bus strategy (made by virtue of section 110 of the TA 2000) and that the scheme will implement the policies in a way which is economic, efficient and effective. The amendments to that test contained in this Bill would replace the “only practicable way” test with a new set of public interest criteria. The local transport authority would have to be satisfied that the scheme would:

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- a) result in an increase in the use of bus services in the area to which the scheme related;
- b) bring benefits to people using services covered by the scheme by improving the quality of those services;
- c) contribute to the implementation of the local transport policies of that authority in a way which was economic, efficient and effective.

272. The new provisions would also require the local authority to be satisfied that the effect on operators was proportionate to the benefits of the scheme to members of the public. The Department is satisfied that the changes to the test for making a quality contracts scheme should ensure that one can only be made where there would be clear and tangible benefits for people living and working in the area, and that any adverse effects on operators would be proportionate to the improvement in the well-being of members of the public.

273. Under the existing legislation, local authority proposals to make a quality contracts scheme in England must be approved by the Secretary of State and, in Wales, by the Welsh Ministers. Provisions in the Bill would change the procedure in England only, by removing the approval role of the Secretary of State, and providing instead that such schemes would have to be approved by a new approvals board, consisting of a traffic commissioner and two other persons drawn from a panel appointed by the Secretary of State. The approvals board would have the power to hold inquiries into the making of a scheme, and the provisions require that any such inquiry would have to be held in public.

274. A right of appeal against a decision of the approvals board is provided to the Transport Tribunal (in accordance with Schedule 4 to the TA 1985) for any person consulted on the making of a quality contracts scheme (see section 125(3) of the TA 2000). A further right of appeal from decisions of the Transport Tribunal would lie to the Court of Appeal on points of law. The Department is therefore satisfied that the replacement, in England, of the approval role of the Secretary of State with the approvals board structure will ensure that there continues to be an independent and impartial assessment of proposed schemes, and that anyone aggrieved by a decision of the approvals board will have the right to a full and fair determination by an impartial tribunal.

Detention of certain vehicles used without a licence

275. Another area when Convention rights may potentially be engaged is in respect of the clause which would introduce provisions under which certain illegally operated public service vehicles could be detained. Clause 41, and Schedule 3 which it would give effect to, contain enabling powers under which a regime could be established to enable certain illegally operated public service vehicles to be detained, removed and disposed of. These powers, when exercised through the making of regulations, would create an enforcement regime which is similar to that already in place for illegally operated goods vehicles.

276. The powers will only be available where an authorised person has reason to believe that a public service vehicle adapted to carry more than eight passengers is being, or has been,

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used on a road in contravention of section 12(1) of the PPVA 1981. That section prohibits such a vehicle from being used on a road for the carriage of passengers for hire or reward except under an operator's licence granted under that Act. Article 1 of Protocol 1 to the Convention is potentially engaged to the extent that the operator (or owner, where different) of a public service vehicle may be deprived of his possessions under these powers.

277. It is in the public interest to ensure that public service vehicles used on the highway for the carriage of fare-paying passengers are properly licensed. Where people purport to provide a public service without meeting the legal requirements, it is appropriate for the state to have powers to take action against them in the interests of public safety. The regime proposed is proportionate to the potential dangers to public health arising from the use of unlicensed vehicles to provide local bus services.

278. To the extent that this power affects the civil rights of a bus operator by depriving him of, or restricting the use of, his possessions, Article 6 (right to a fair trial) is potentially engaged. Paragraph 9 of new Schedule 2A to the PPVA 1981, as would be inserted by Schedule 3 to the Bill, would require any regulations made under these powers to make provision for the owner of a detained vehicle to apply to the traffic commissioner for the return of the vehicle. Such regulations must also provide for an appeal to the Transport Tribunal against the determination of a traffic commissioner. Any decision of the Transport Tribunal may be challenged on appeal to the Court of Appeal.

279. All other provisions in the Bill are also judged to be compliant with the Convention. In particular, there are no provisions in this Bill whose effect would be to deprive a person of the right to peaceful enjoyment of their property (with the exception of the provisions relating to the detention of illegally operated vehicles which are described above). Where provisions in the Bill empower traffic commissioners to act in a way which might restrict the way in which bus operators can use their property, there are sound "public interest" reasons for the powers. Furthermore, in all such cases a right of appeal to the Transport Tribunal against decisions of traffic commissioners is provided, with a further right of appeal to the Court of Appeal on points of law. The Department is therefore satisfied that a person adversely affected by the exercise of these powers will have the right to a full and fair determination by an impartial tribunal.

TRANSPOSITION NOTES

280. The Bill does not transpose any European Directive, and so there are no Transposition Notes published alongside it.

COMMENCEMENT DATES

281. The following provisions would come into force on enactment:

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- clause 66(10), which relates to the change of name of Passenger Transport Authorities and passenger transport areas;
- the provisions in Part 8 (Supplementary Provisions), other than clause 114 and Schedule 7 (Repeals); and
- any power under or by virtue of the Bill to make regulations or an order.

282. Clauses 109 and 110 would come into force two months after the Bill is enacted.

283. Any repeal would come into force in the same way as the provisions of the Bill to which the repeal relates.

284. Other provisions would come into force on such day or days as the Secretary of State, or the Welsh Ministers in the case of the provisions mentioned in clause 117, may by order made by statutory instrument appoint.

GLOSSARY

Existing Acts referred to in these Explanatory Notes

Abbreviation used in these Notes	Short Title of Act
The TA 1968	Transport Act 1968 (c. 73)
The PPVA 1981	Public Passenger Vehicles Act 1981 (c. 14)
The TA 1985	Transport Act 1985 (c. 67)
The GLA Act 1999	Greater London Authority Act 1999 (c. 29)
The TA 2000	Transport Act 2000 (c. 38)

LOCAL TRANSPORT BILL [HL]

EXPLANATORY NOTES

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*Ordered to be Printed,
7th November 2007*

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LONDON: THE STATIONERY OFFICE

Printed in the United Kingdom by
The Stationery Office Limited

£x.00

HL Bill 1—EN

54/3