



# Department for Transport

## Strengthening local delivery: The draft Local Transport Bill

### Volume 1: A consultation

Presented to Parliament by the  
Secretary of State for Transport,  
by Command of Her Majesty  
May 2007

Cm 7043-I

£40.00  
Four volumes  
Not to be sold separately

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## Foreword



Our transport system plays a crucial role in our economy and society. It connects people to work, shops, friends and family, and essential goods and services; it links businesses to their employees and their markets, at home and abroad. In an increasingly inter-connected world, efficient transport networks are now more important than ever.

We have made huge progress over the past decade: there are more rail passengers than at any time since the 1960s; we have seen the first year-on-year increases in bus patronage for decades; we have

introduced free local bus travel for older and disabled people in their local areas, and plan to extend this concession throughout England from 2008; and we are addressing our climate change responsibilities. This progress is set to continue as we spend some £140 billion on transport over the decade to 2015.

But if we are to secure the best possible value from these record levels of investment, we need to ensure that our legislative and institutional frameworks keep pace with the many changes that are going on in the world around us. The *Eddington Transport Study*, published in December last year, provided a number of timely recommendations to enhance the delivery of transport in the UK's cities. These recommendations were aimed at better equipping us to address the high potential future cost of congestion and ensure transport can continue to sustain economic growth.

I am committed to ensuring that we are well equipped to meet not only today's transport challenges, but also those of ten or twenty years' time. The draft Local Transport Bill is a demonstration of that commitment. It is a key part of our strategy to empower local authorities to take appropriate steps to meet local transport needs in the light of local circumstances.

This document sets out our detailed plans to enable local authorities to improve the quality of local bus services, building on *Putting Passengers First*, published last December. It also outlines our proposals to reform the way local transport is managed in our major conurbations. Our objective is clear: to ensure strong local leadership and a coherent approach to transport across individual local authority boundaries and across different transport modes.

In some areas, local road pricing schemes may have a role to play – but this is a decision for local authorities to make themselves. This is why we are proposing a series of reforms to the existing legislation to ensure that those local authorities who wish to develop local schemes have the freedom and flexibility to do so in a way that best meets local needs.

Consistent with our longer-term strategy on road pricing, the draft Bill would not provide the legal powers that would be needed for a national system of road pricing. We have made clear that decisions on that can be taken only in the light of further practical experience of local schemes. Further, separate, legislation would be needed if in future a decision was taken to move towards a national scheme – and there would need to be a full and informed public debate.

Publication of the draft Bill provides an important opportunity to ensure we get our proposals right. We need to learn from and build on the diversity of experience of transport professionals and transport users across the country, and I encourage all interested parties to participate in the consultation process.

I look forward to hearing your views.

A handwritten signature in black ink, appearing to read 'Douglas Alexander', written in a cursive style.

Douglas Alexander MP

## Executive summary

### THE CORE PURPOSE OF THE DRAFT BILL IS TO TACKLE CONGESTION AND IMPROVE PUBLIC TRANSPORT ...

E.1 The Department for Transport's aim is transport that works for everyone. This means a transport system which sustains economic growth and improves productivity; contributes to our objectives for tackling climate change and other environmental challenges; and enhances access to jobs, services and social networks, including for the most disadvantaged.

E.2 Rising demand for transport is a consequence of a strong and prosperous economy, and increasing globalisation of markets for goods and services. Against that background, and despite planned transport spending of some £140 billion over the ten years to 2015, congestion is expected to increase by 25 per cent over the same period.

E.3 As Sir Rod Eddington pointed out in his advice to government last December, the prospect of rising congestion now presents a significant risk to our future economic performance. We therefore need to act now to ensure that we are equipped to meet the future transport needs of our economy, while also continuing to meet our environmental and social goals.

E.4 There is no single policy that, by itself, will address all these issues. That is why our strategy is based around a broad package of measures. These include targeted increases in road capacity where justified, sustained investment in public transport, and better management of our existing transport networks.

E.5 The measures contained in the draft Bill form part of this wider strategy to address our future transport challenges. For the most part, the extent of the provisions in the draft Bill is confined to England and Wales, though a small number of measures would apply throughout Great Britain.

### THE DRAFT BILL AS A WHOLE IS ABOUT EMPOWERING TRANSPORT DELIVERY AT THE LOCAL LEVEL ...

E.6 The draft Bill seeks to empower local authorities to develop local solutions to the local transport challenges they face, consistent with the devolutionary principles set out in the Local Government White Paper *Strong and Prosperous Communities*. It seeks to give those local authorities that need them strengthened powers to deliver a local transport system that is best suited to local needs by:

- giving them the mix of powers required to harness the investment and innovation of the bus industry to meet the specific needs of the local community;

- setting out proposals that would enable our major urban areas to strengthen their capacity to deliver efficient transport networks designed around local needs; and
- updating the legislative basis for those local authorities who decide to take forward local road pricing schemes as part of a package of transport improvements.

## **DEVELOPING THE BUS MARKET THROUGH STRONGER JOINT WORKING BETWEEN PUBLIC AND PRIVATE SECTORS ...**

E.7 Buses play a key role in our transport system. They account for two thirds of all journeys made by public transport. The post-war decline in bus patronage is now levelling off, and we have seen the first year-on-year increases in patronage for decades. However, in too many places the current framework is still not delivering the quality of service that passengers expect. The draft Bill seeks to ensure we have a framework that enables more areas to replicate the successes that some areas have already achieved.

E.8 Last year we carried out an extensive review of bus services across the country, and in December 2006 published *Putting Passengers First*, a set of policy proposals designed to help improve the standard of bus services across the country. Taken together, they constitute a balanced package of measures, which aim to:

- promote more effective partnership working between local authorities and bus operators, to deliver services that are better matched to the needs of passengers in their local areas;
- make the implementation of 'quality contracts' schemes a realistic option in areas where it is in the public interest for local authorities to take greater control over bus services;
- provide a new regime to deliver better punctuality, for the first time holding local authorities as well as bus operators to account for their contribution to punctuality performance; and
- support further development of the community transport sector, by removing unnecessary restrictions and by streamlining the system for issuing permits to community transport providers.

E.9 The proposals were welcomed by local authorities and bus operators alike, and the draft Bill includes the legislative provisions that would support delivery of the policies set out in *Putting Passengers First*.



## **STRENGTHENING TRANSPORT STRATEGY AND DELIVERY IN OUR MAJOR URBAN AREAS ...**

E.10 There is a broad consensus that the current arrangements for the administration of statutory transport functions (“governance”) in the major English cities outside London do not adequately support effective transport planning and delivery. The existing legislation lacks flexibility and needs to be updated to reflect changing patterns of transport needs and use. This need is likely to become more pressing as road congestion increases.

E.11 We are committed to ensuring that the structures in place in each area reflect what works best locally, rather than a “one size fits all” approach imposed from the centre. Our aim is devolution, not centralisation.

E.12 The draft Bill includes provisions to:

- require the major cities, and enable other areas, to review and propose their own changes to existing transport governance arrangements. The Secretary of State would be able to implement proposed changes through secondary legislation tailored to the needs of individual areas; and
- in all metropolitan areas outside London, update the existing powers and duties of the Passenger Transport Authorities (PTAs) and individual local authorities, and provide a stronger process for planning transport by means of an *Integrated Transport Strategy* and accompanying implementation plan.

## **CONTINUING TO SUPPORT THE INTRODUCTION OF LOCAL ROAD PRICING AS PART OF A PACKAGE OF TRANSPORT IMPROVEMENTS ...**

E.13 Rising congestion on our roads, particularly in our towns and cities, increases delay and frustration for motorists, and could have a significant impact on our future prosperity, environment and quality of life. We cannot simply build our way out of congestion, so we need to look at alternative ways of tackling it. In particular, we need to consider seriously the role that road pricing – as part of a package of measures including better public transport – could play.

E.14 This is why in 2005 we called for a national debate on road pricing. In the first instance, the Government is working with interested local authorities to bring forward local schemes as local solutions to local problems. We have said that we will make funding available from the Transport Innovation Fund for schemes in England that combine demand management, including road pricing, with improvements to local transport.

E.15 The draft Bill would support this strategy by:

- ensuring that local authorities who wish to develop local road pricing schemes are free to do so in a way that is best suited to local needs, within a clear framework of local accountability; while
- ensuring that schemes are consistent and interoperable, so as to avoid unnecessary costs and complexity for road users who need to interact with more than one scheme.

E.16 No decision has yet been taken on whether or not to introduce a national road pricing scheme. Neither existing legislation nor the provisions in the draft Bill would provide the powers that would be needed for such a scheme: separate legislation would be required if, in the future, a decision was made to introduce a national scheme. We have made clear that the earliest such a scheme could be introduced would be the middle of next decade, and there needs to be a full and informed public debate.

### **HOW TO HAVE YOUR SAY ...**

E.17 Publication of the draft Bill is just the first step. We invite views from all interested parties on all aspects of the draft Bill and the accompanying documentation. The consultation closes on Friday 7 September, and Chapter 7 provides full details of how to respond.

E.18 In parallel with the public consultation process, the draft Bill is being made available to the House of Commons Transport Committee for Parliamentary pre-legislative scrutiny.

## CURRENT SITUATION AND PROPOSED CHANGES

	Current situation	Proposed changes
<b>Improving the quality of local bus services (Chapter 3)</b>		
<b>Voluntary partnership agreements between local authorities and bus operators</b> ( <i>clause 24 and Schedule 2</i> )	<ul style="list-style-type: none"> <li>Local authorities and bus operators voluntarily agree a package of improvements to local bus services, relying on mutual agreement to ensure promised improvements are carried through.</li> <li>Local authorities can generally enter into bilateral agreements with individual operators without raising competition issues; this is more difficult for multilateral agreements for the things that matter most – timetables and fares.</li> </ul>	<ul style="list-style-type: none"> <li>Strengthened voluntary agreements with a revised competition test to facilitate multilateral agreements between a local authority and more than one operator. The competition test would be consistent with other domestic and EC competition law requirements, but with terms tailored to the bus market.</li> <li>Such agreements could specify minimum frequencies, timings and maximum fares as appropriate.</li> </ul>
<b>Quality partnership schemes</b> ( <i>clauses 3 to 6</i> )	<ul style="list-style-type: none"> <li>A local authority can make a scheme whereby it enters into a formal arrangement with bus operators, under which each party commits to certain improvements (e.g. operators who commit to invest in new buses are granted access to improved facilities such as bus priority measures).</li> <li>Minimum frequencies, timings and fares cannot be included within the scope of a scheme, and all measures (by local authorities and operators) must come into effect on a single date.</li> </ul>	<ul style="list-style-type: none"> <li>Quality partnership schemes could cover minimum frequencies, timings and maximum fares as appropriate. Schemes would still be subject to the competition test in Schedule 10 to the Transport Act 2000.</li> <li>Improvements by local authorities and operators could be phased in over a period of time.</li> </ul>

<p><b>Quality contracts schemes</b> (<i>clauses 7 to 23</i>)</p>	<ul style="list-style-type: none"> <li>Local authorities can suspend the deregulated market in specified areas for a specified time, and following a competitive bidding process grant exclusive rights to a single operator to provide a specified service.</li> <li>Before implementing a scheme, the local authority must demonstrate that it is the “only practicable way” to achieve a policy in their bus strategy; a scheme in England must be approved by the Secretary of State, and a scheme in Wales by the Welsh Ministers; and a scheme can last no longer than ten years, with individual contracts within a scheme limited to five years.</li> </ul>	<ul style="list-style-type: none"> <li>The “only practicable way” test replaced with a series of public interest criteria.</li> <li>In England, the Secretary of State’s approval role replaced with a new framework for scheme approval and appeals.</li> <li>The duration of a scheme could be extended beyond the current ten years in certain circumstances.</li> <li>An increase to a maximum of ten years for individual contracts.</li> </ul>
<p><b>Punctuality</b> (<i>clauses 31 and 32</i>)</p>	<ul style="list-style-type: none"> <li>Traffic commissioners (TCs) are responsible for taking action against operators who are failing to provide services in accordance with the terms they have registered with the TCs.</li> <li>But TCs have limited access to punctuality data to identify areas of under-performance, and have no means of holding local authorities to account for their contribution to bus punctuality.</li> </ul>	<ul style="list-style-type: none"> <li>To develop a new performance regime where the local TC receives better quality data; and local authorities, as well as operators, can be held to account for their contribution to the performance of local bus services (e.g. the provision and enforcement of bus priority measures).</li> </ul>

<p><b>Community transport</b> (<i>clauses 27 to 30</i>)</p>	<ul style="list-style-type: none"> <li>• The voluntary sector plays a significant complementary role in providing transport services through two systems of permits under the Transport Act 1985.</li> <li>• “Section 19” permits are issued to bodies concerned with education, religion, social welfare etc, for the use of vehicles with nine seats or more. They do not allow members of the general public to be carried.</li> <li>• “Section 22” permits allow the provision of local services for the general public, but prohibit the payment of drivers and the use of vehicles with more than 16 seats.</li> </ul>	<ul style="list-style-type: none"> <li>• For section 19 permits: to allow the use of vehicles with fewer than nine seats, and to simplify the permit issuing system so that all permits are issued by TCs.</li> <li>• For section 22 permits: to allow drivers on those local services to be paid, and to allow the use of vehicles with more than 16 seats.</li> </ul>
<p><b>Taxi-buses</b> (<i>clause 26</i>)</p>	<ul style="list-style-type: none"> <li>• Only taxi owners can apply for a “special restricted” public service vehicle (PSV) operator's licence, to enable them to provide local bus services.</li> </ul>	<ul style="list-style-type: none"> <li>• Holders of a private hire vehicle (PHV) licence would also be able to apply for these licences.</li> </ul>
<p><b>Flexibility for local authorities</b> (<i>clauses 33 to 37</i>)</p>	<ul style="list-style-type: none"> <li>• The Secretary of State must give consent for the sale of council-owned bus companies.</li> <li>• Local authorities, and in Wales also the Welsh Ministers, have the power to subsidise local bus services only where transport needs would not otherwise be met.</li> <li>• Bus subsidy contracts may be no longer than five years.</li> </ul>	<ul style="list-style-type: none"> <li>• This requirement would be removed.</li> <li>• Clarification of powers to subsidise improvements in the standard of service (for example, frequency, hours of operation and quality of vehicle).</li> <li>• Limit for bus subsidy contracts extended to eight years.</li> </ul>
<p><b>Traffic regulation conditions – appeals</b> (<i>clause 25</i>)</p>	<ul style="list-style-type: none"> <li>• Traffic regulation conditions may be applied to a public service vehicle (PSV) operator's licence by the TCs, at the request of a local traffic authority. In these cases, appeals against such conditions are currently heard by the Secretary of State.</li> </ul>	<ul style="list-style-type: none"> <li>• Appellate function transferred to the Transport Tribunal, consistent with appeals against other decisions made by the TCs.</li> </ul>

Reforming local transport governance (Chapter 4)		
<p><b>Local reviews of transport governance arrangements</b> <i>(clauses 39 to 55)</i></p>	<ul style="list-style-type: none"> <li>• Existing arrangements for planning and delivery of transport services in different areas set out in primary legislation.</li> <li>• In Metropolitan areas, District Councils have responsibility for managing local roads. Passenger Transport Authorities and Executives (PTA/Es) are responsible for planning and implementing policies on public transport.</li> <li>• No powers exist to set up new PTA/Es or change geographical boundaries of existing ones.</li> </ul>	<ul style="list-style-type: none"> <li>• The Secretary of State would be able to direct local authorities in Metropolitan and other areas to review existing governance arrangements and publish a scheme with their proposals for change in order to improve effectiveness of transport in their area.</li> <li>• The Secretary of State could issue guidance on carrying out reviews and schemes, and implement proposed changes through secondary legislation. Would allow for different arrangements according to needs of each area.</li> <li>• Subject to specific criteria, would allow establishment of new PTA/Es and changes to existing boundaries.</li> <li>• Areas would be able to keep their arrangements under review and submit further proposals for changes in future.</li> </ul>

<p><b>Transport planning and duties</b> (<i>clauses 56 to 63</i>)</p>	<ul style="list-style-type: none"> <li>Local transport authorities have responsibility for producing Local Transport Plans (LTPs) for their area (Metropolitan District Councils and PTAs undertake this duty jointly in Metropolitan areas).</li> <li>Local transport authorities and PTAs have an additional duty to produce bus strategies.</li> </ul>	<ul style="list-style-type: none"> <li>For Metropolitan areas, the joint duty on district councils and PTAs to produce an LTP would be replaced with a duty on PTAs (including any successor bodies following implementation of proposals in a city's governance review) to produce an Integrated Transport Strategy (ITS) and an Implementation Plan.</li> <li>Bus strategies would be absorbed into the ITS in Metropolitan areas.</li> <li>Secretary of State would be able to issue guidance on producing ITSs and Implementation Plans.</li> <li>Local authority "well-being" powers would be extended to PTAs.</li> <li>A new duty would be placed on PTAs and metropolitan district councils to have regard to Government policy and guidance on climate change in carrying out their functions.</li> </ul>
<p><b>Taking forward local road pricing schemes (Chapter 5)</b></p>		
<p><b>Local freedom and flexibility: Role of PTAs</b> (<i>clauses 64 to 70</i>)</p>	<ul style="list-style-type: none"> <li>A local road pricing scheme can be set up only by one or more local traffic authorities (LTAs).</li> </ul>	<ul style="list-style-type: none"> <li>A scheme could be made jointly by LTAs and the relevant Passenger Transport Authority (but not by a PTA acting in isolation).</li> </ul>

<p><b>Role of Secretary of State</b> (<i>clauses 72 and 73</i>)</p>	<ul style="list-style-type: none"> <li>• A scheme must be approved by the Secretary of State.</li> <li>• There is a specific power for either a local authority or the Secretary of State to hold an inquiry into a local scheme, or to cause such an inquiry to be held.</li> </ul>	<ul style="list-style-type: none"> <li>• A new framework of local accountability would replace the current role for the Secretary of State in approving schemes and local authorities' plans for the application of the net proceeds from schemes.</li> <li>• The power enabling the Secretary of State to hold an inquiry into a local scheme (or require a local authority to do so) would be repealed, but a local authority would still be able to hold such an inquiry if it wished.</li> </ul>
<p><b>Purpose of schemes and application of revenues</b> (<i>clauses 65(2), 71, 81 and 82</i>)</p>	<ul style="list-style-type: none"> <li>• Local pricing schemes must support the achievement of policies in the authority's Local Transport Plan.</li> <li>• Application of revenues for the “initial period” of an “early relevant scheme” (as defined in the legislation) must support the achievement of policies in the Local Transport Plan.</li> </ul>	<ul style="list-style-type: none"> <li>• References to Local Transport Plans would be replaced by (more general) references to local transport policies.</li> <li>• The requirement for the application of revenues by local authorities to support local transport policies would apply to all local schemes at all times.</li> <li>• Local authorities would be under a new duty to consider potential impacts on climate change and air pollution when considering whether to introduce a scheme.</li> </ul>
<p><b>Variation of charges</b> (<i>clause 74</i>)</p>	<ul style="list-style-type: none"> <li>• The current legislation includes an indicative list of variables by which charges might be varied in a local scheme.</li> </ul>	<ul style="list-style-type: none"> <li>• Legislation would specify that charges could also be varied according to the methods or means of recording, administering, collecting or paying the charge.</li> </ul>



<p><b>Consistency and interoperability</b> (clauses 75 to 77)</p>	<ul style="list-style-type: none"> <li>Secretary of State can make regulations covering the “installation and maintenance” of equipment for road pricing schemes.</li> </ul>	<ul style="list-style-type: none"> <li>This power would be extended to cover the “use” of equipment, so that (for example) standard data formats, encryption standards and equipment numbering systems could be specified.</li> <li>The appropriate national authority could make regulations requiring charging authorities to accept payment from specific types of road user in a specific manner.</li> </ul>
<p><b>Information flows</b> (clauses 78 to 80)</p>	<ul style="list-style-type: none"> <li>Certain information held by central government can be useful to local authorities designing or operating a road pricing scheme, but central government cannot charge to cover the administrative costs of providing that information.</li> <li>The appropriate national authority can request information from charging authorities, but cannot require them to provide it.</li> </ul>	<ul style="list-style-type: none"> <li>The appropriate national authority would be able to charge a reasonable fee to cover the costs of supplying such information.</li> <li>The appropriate national authority would be able to require charging authorities to provide information about their schemes, for example to inform the future national debate on road pricing.</li> </ul>
<p><b>Traffic commissioners (Chapter 6)</b></p>		
<p><b>Senior traffic commissioner (STC)</b> (clause 1)</p>	<ul style="list-style-type: none"> <li>STC appointed administratively, possesses no statutory powers and can promote consistency only through agreement with other TCs.</li> <li>Secretary of State able to issue general directions to the TCs.</li> </ul>	<ul style="list-style-type: none"> <li>Role of STC placed on a statutory footing, with power to issue directions and guidance to the individual TCs covering any aspect of the conduct of their functions.</li> <li>Secretary of State would be able to issue guidance to the STC on matters of generic process and policy.</li> </ul>





## 1. Introduction to the draft Bill

1.1 The Queen's Speech in November 2006 announced our intention to publish a draft Bill to support our strategy to tackle road congestion and improve public transport.

1.2 Publication of the draft Bill is the latest stage in an extended process of debate and scrutiny. The draft Bill is being developed in three stages:

*Stage 1 (up to early 2007):* developing the policy thinking in consultation with stakeholders – through the “long hard look” into the future of bus services, a series of workshops on governance arrangements in the six metropolitan areas, and the work of the Bus Partnership Forum and Road Pricing Local Liaison Group. As part of this process, our initial proposals on buses were published in *Putting Passengers First* (December 2006).

*Stage 2 (May to September 2007):* to enable a full and frank debate on the overall package of reforms and on the detail of the specific proposals, we are undertaking a full public consultation on the proposals and the draft Bill is being made available to Parliament for pre-legislative scrutiny.

*Stage 3 (September 2007 onwards):* we will consider the responses submitted during the consultation process, and the recommendations of the Parliamentary scrutiny committee, before deciding how to proceed with our proposals. Decisions on whether, and if so when, to introduce a

Bill to Parliament during the 2007-08 session will be taken in the light of the Government's overall legislative programme, and the availability of Parliamentary time.

1.3 This consultation document is the first of four volumes setting out the proposals contained in the draft Bill. The other volumes are:

- *The draft Bill* – the proposed legislative provisions (Volume 2).
- *Explanatory notes* – to assist the reader in understanding the provisions of the draft Bill (Volume 3).
- *Regulatory impact assessments* – analysing the costs and benefits of the proposals contained in the draft Bill (Volume 4).

1.4 This document sets out the policy background and the overall rationale for the proposals, summarises the proposals in the draft Bill, and invites views both on the overall policy package and on specific aspects.

### **Box 1.1: Territorial extent of the draft Bill**

Many of the matters described in this document are devolved in Scotland, Wales and/or Northern Ireland, and separate legislation applies in relation to London. The descriptions of the policy measures contained in the draft Bill explain how the provisions will apply in these areas, and here we summarise the overall position.

All consultation responses submitted to the Department for Transport may be shared with the devolved administrations, but interested parties in the devolved territories are also welcome to submit copies of their responses directly to the devolved administrations.

#### **Scotland**

The Scottish Parliament has legislative competence for most of the areas covered by the draft Bill. Scotland's transport policy has most recently been set out in the National Transport Strategy, published in December 2006, with a parallel Action Plan on bus services in Scotland. The existing legislative framework for bus services and road pricing in Scotland is set out in the Transport (Scotland) Act 2001 and for regional partnership in the Transport (Scotland) Act 2005.

The draft Bill includes a small number of measures which would apply throughout Great Britain. These are:

- proposals relating to community transport (paragraphs 3.40 to 3.44);
- a power for the Secretary of State to charge a reasonable fee for the provision of information and data by central government to local authorities in the context of local road pricing schemes (paragraphs 5.24 to 5.26); and

- the proposed new powers for the senior traffic commissioner (paragraphs 6.8 to 6.13). This provision is drafted so that, in Scotland, it relates only to matters that are reserved.

Other proposals in this consultation paper, if extended to Scotland, could be within the legislative competence of the Scottish Parliament or the executive competence of Scottish Ministers. Further discussions on the way forward for these matters will take place with the Scottish Executive in due course.

## Wales

In general, the provisions relating to buses and local road pricing schemes would apply in Wales. However, the draft Bill would not apply the following proposed changes in Wales:

- changes to the approvals and appeals processes for bus quality contracts schemes (bullet 2 in paragraph 3.26); and
- changes to the approval process for local road pricing schemes and provisions relating to inquiries into such schemes (paragraph 5.18 and Box 5.1).

The proposals to facilitate local transport governance reform (Chapter 4) would not apply in Wales, as a separate framework exists there following the Transport (Wales) Act 2006.

## Northern Ireland

None of the proposals in the draft Bill would have effect in Northern Ireland.

## London

The Greater London Authority Act 1999 makes specific provision for London on many of the matters covered by the draft Bill. Consequently:

- of the bus-related provisions (Chapter 3), only those relating to the senior traffic commissioner, taxi-buses, community transport and, to a limited extent, the power of the traffic commissioner to attach conditions to relevant licences, are relevant in London;
- the provisions relating to local transport governance (Chapter 4) would not have effect in London; and
- some of the provisions relating to local road pricing schemes (Chapter 5) would be applicable in London, as explained in Box 5.2.

1.5 The remainder of this consultation document:

- sets out how the draft Local Transport Bill delivers wider government objectives and how the three core parts of the draft Bill interact and support each other (Chapter 2);
- summarises in turn the policy measures proposed on buses, local transport governance, road pricing and the traffic commissioners (Chapters 3 to 6 respectively); and
- explains how we intend to take forward the debate with interested parties over the next few months, including details of how to respond to the public consultation (Chapter 7).





## 2. The overall policy package – shared objectives, devolved delivery

**Rising demand for transport is a consequence of a strong and prosperous economy, but also brings challenges. As highlighted in Sir Rod Eddington’s advice to government, the prospect of rising congestion, if left unchecked, presents a significant risk to our future economic performance. We also need to ensure we balance increasing demand for transport against our environmental objectives, as well as ensuring that our transport system continues to meet the needs of all – including the most disadvantaged in our society.**

**No single policy will meet all of our future transport needs, which is why our strategy is based around a broad package of measures. A key theme of the draft Bill is that it seeks to empower local authorities to develop local solutions to their local transport needs. It therefore contributes to our objective to strengthen local leadership and action, consistent with last autumn’s Local Government White Paper.**

**The draft Bill needs to be viewed in the context of the Government’s spending programmes – investing in, maintaining and operating transport networks and services. These are aimed at maximising the use and performance of existing road, rail and other networks. In the**

**last five years, we have spent over £55 billion. We will spend a further £13 billion this year, and the Long Term Funding Guideline for transport spending grows by over 5 per cent a year.**

**The focus of the draft Bill is on improving transport delivery at the local level through improving the regulatory framework for buses; modernising transport planning and delivery capacity in our major city areas; and updating the framework for local road pricing.**

### **(i) The challenges we face**

2.1 Reliable and efficient transport networks are integral to sustaining economic growth and rising productivity. They contribute to stronger and deeper markets for labour, goods and services.

2.2 Rising demand for transport is a consequence of a strong and prosperous economy, and increasing globalisation of markets for goods and services – but also presents risks to our future economic performance. Despite planned transport spending of £140 billion over the decade to 2015, congestion is forecast to rise by 25 per cent over the same period, increasing delays and frustration for road users. 80 per cent of that congestion would be in our towns and cities. Sir Rod Eddington's advice to government in December 2006<sup>1</sup> illustrated the scale of the challenge that this presents to future economic growth and productivity.

2.3 Increasing demand for transport also needs to be balanced against our objectives to protect the environment. Climate change has become a central concern of transport policy, with carbon emissions from domestic transport rising by 10 per cent between 1990 and 2004. Transport is also a significant contributor to local air pollution in urban areas and beside busy roads, with implications for health and well-being, and for local ecosystems.

2.4 We also need to ensure that our transport system continues to support access to jobs, services and social networks, including for the most disadvantaged in our society. This is a crucial aspect of our quality of life. Social inclusion is not just about transport, of course, but the design and delivery of transport services should help people to reach the facilities they need, when they need them.

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<sup>1</sup> More information can be found at <http://www.dft.gov.uk>.



2.5 There is no single policy that, by itself, will meet the future transport needs of our economy, environment and society. That is why our strategy is based around a broad package of measures at national, regional and local level, as outlined below. A key focus of the draft Bill is on empowering local authorities to develop local solutions to the local transport challenges they face. This is consistent with the strengthened leadership role envisaged for local authorities in *Strong and prosperous communities*, the recent Local Government White Paper.

### **Box 2.1: Learning from experience**

The draft Bill is a response to the practical challenges and experience of delivery over the past ten years. It seeks to build on and reinforce existing transport policy, ensuring it remains fit for purpose for the challenges ahead.

We have listened to those at the sharp end, including businesses, transport operators and passengers, about the challenges and opportunities as they see them – about what works, what is needed to secure change on the ground and the complementary roles of private and public sectors.

Our proposals on bus services reflect practical experience in translating the Transport Act 2000 provisions for quality partnership and quality contracts schemes into action. In addition to last year's bus policy review, studies by the Confederation of Passenger Transport and the Passenger Transport Executive Group, reports from the Transport Select Committee and the Eddington Transport Study have all contributed to the evidence base.

The proposals on governance build on the considerable evidence accumulated over the years on the planning and delivery successes and challenges faced by the metropolitan transport authorities, most recently through two rounds of Local Transport Plans, the State of the Cities report, the Eddington Study, and research commissioned by the Local Government Association and the Passenger Transport Executive Group.

Our local road pricing proposals have been influenced by lessons learned from established schemes in London (established under the Greater London Authority Act 1999) and Durham (under the Transport Act 2000), and the growing experience and knowledge base of those local authorities who are exploring the potential for schemes in their areas.

As a result, we are confident that our emerging proposals are well targeted, practicable and proportionate.

**(ii) The draft Bill in context**

2.6 The draft Bill needs to be viewed in the context of the Government's wider transport policies and initiatives. Legislation is an important enabler of action, a pre-requisite for some kinds of change. But it should not be viewed in isolation: it is a complement to wider Government planning for investment in and management of the nation's transport infrastructure and services.

2.7 The wider context for the draft Bill is our programme for investing in and maintaining the transport networks and our work to maximise the use and performance of existing road, rail and other networks. Figure 2.1 below summarises the range of Government actions affecting national, regional and local travel. Over the past five years we have spent over £55 billion on support for transport, with £27 billion of this taking the form of investment in enhancing and renewing networks and infrastructure.

**Figure 2.1: Government actions at national, regional and local level**

	<b>Investing in our Transport Infrastructure</b>	<b>Making Better Use of Transport Networks</b>	<b>Modernising our Regulatory Frameworks</b>
<b>National</b>	Trunk Road Investment Programme  Rail Strategy and the forthcoming High Level Output Specification for Rail  Transport Innovation Fund investing in Productivity	Managing and improving performance and punctuality on the Rail Network  Trunk Road Network Management - smarter technology and rolling out Traffic Officers to assist smooth operation of the network	Fiscal, regulatory and technology support for cleaner fuels and vehicles
<b>Regional</b>	Regional Funding Allocations – £8 billion over 10 years	Regional Transport Strategies  Regional Planning Assessments for Rail	
<b>Local</b>	Government investing £2.5 billion capital and £4 billion revenue per annum in local transport services.  Of which £2.5 billion a year is for better bus services	Transport Innovation Fund – opportunity for local road pricing schemes to tackle congestion  Smarter choices, Homezones and sustainable travel demonstration towns	Concessionary Bus Travel Bill – providing free travel on local buses throughout England for older and disabled people  Traffic Management Act 2004 – giving local authorities a new duty to keep traffic moving  <b>Modernising the regulatory framework for bus services</b>  <b>Updating the legislative framework for local road pricing</b>
Local Transport Plans - planning, managing and investing at the local level  <b>Reforming local transport governance in our major city areas</b>			

### (iii) The scope of the draft Bill

2.8 The focus of the draft Bill is on improving transport delivery at the local level, through improving the regulatory framework for buses; allowing our major city areas to modernise transport planning and delivery capacity; and updating the framework for local road pricing.

2.9 The draft Bill would:

- **help to improve local bus services by providing greater flexibility for local authorities to work with bus operators to deliver services that match more closely the current and future needs of the travelling public.** This recognises the leadership role of local authorities in planning for the accessibility needs of their residents, while preserving and building on the considerable innovative and commercial strengths of a private sector led industry. At the same time, we are proposing to establish a stronger and more effective framework for improving punctuality and reliability, reflecting the shared responsibility of local authorities and transport operators for enhancing the performance of local bus services;
- **strengthen transport management within our major urban areas by providing a framework within which these conurbations can identify and implement the changes required to their transport planning and delivery arrangements.** The draft Bill offers an opportunity to look afresh at transport arrangements in metropolitan counties and potentially in other large cities in England, to ensure that local government is both empowered to take the decisions that are increasingly necessary and accountable for effective delivery. Ensuring appropriate leadership capacity in our major cities will help to deliver better bus services and, where local authorities choose to do so, local road pricing schemes. This means promoting local solutions to local problems: enabling local government to lead and to innovate; and
- **update the existing legislative provisions for local road pricing schemes to give greater freedom to those local authorities that want to bring forward local road pricing schemes within a clear and accountable framework, whilst ensuring that any schemes are consistent and interoperable for road users.** The aim is to enable local authorities to tackle congestion by introducing local road pricing schemes if that is the right approach for their area. It would be for local authorities to design any scheme, and any revenues raised would have to be spent on transport in the local area (for example, in conjunction with improved public transport provision). The draft Bill would not provide the powers that would be needed if, in the future, central government decided to move towards a national road pricing scheme. Separate legislation would be needed for that in the future, preceded by a full and informed public debate.

2.10 In addition, we are currently considering a further measure in the area of disabled persons' public transport needs (see Box 2.2).

2.11 The draft Bill recognises the central role of bus services in delivering effective, efficient and sustainable travel options. It seeks to ensure we have a framework for halting and reversing the long-term decline in bus use, enabling more areas to replicate the successes that some areas have already achieved in improving their local bus services and increasing patronage.

2.12 All this needs to be supported by the right structures and processes. If we are to face up to the challenges of rising congestion over the next ten or twenty years, we need to ensure that the arrangements for managing transport in our major urban areas in particular, where congestion problems are greatest, remain fit for purpose with strong local leadership and joined-up delivery. The draft Bill therefore includes proposals to enable each area to strengthen its delivery capacity.

2.13 But public transport improvements will not be enough on their own in our most congested areas. A number of local authorities are considering the scope for measures to manage demand and ensure more reliable journeys for public transport and private vehicles alike. Where the circumstances are right, road pricing is one of the possible options as part of a package of measures to tackle congestion. It has the potential to deliver significant reductions in congestion, with knock-on benefits for the environment – for example reducing emissions of air pollutants and greenhouse gases as well as noise levels in the local area. The draft Bill would update the legislative framework to increase local flexibility for areas which are considering schemes, while also ensuring that any schemes are consistent and interoperable.

2.14 The draft Bill taken as a whole would help to ensure that local authorities have at their disposal a range of options for delivering better local bus services, and would facilitate a more coherent approach to transport in our major city areas. These solutions would be better designed and delivered if decisions on implementation are taken locally reflecting the different needs of different areas. The intention is a mutually reinforcing package – strengthening the local tool-kit of powers within an overarching national framework and supporting delivery with complementary investment.

### **Box 2.2: Disabled persons' public transport needs**

The provisions in the draft Bill are set out in Chapters 3 to 6. In addition, the Government is considering one further proposal for legislation that would fall within the scope of the Local Transport Bill. This concerns the Disabled Persons Transport Advisory Committee (DPTAC).

The Government is committed to an accessible public transport system in which disabled people have the same opportunities to travel as other members of society. DPTAC is the Government's statutory advisor on the public passenger transport needs of disabled people. Its members represent a wide cross-section of disabled people and key transport professionals with experience of disability issues, including representatives from Scotland and Wales. Under current legislation, the Secretary of State can provide funds to the Committee with which it may pay its members travelling and other allowances, and defray other expenses incurred by them in connection with its functions. However, the Committee cannot make any salary payments to its members.

A quinquennial review of the Committee recommended that consideration be given to enabling salary payments to be made to Committee members. We agree that there is a strong case for DPTAC members to receive a broader remuneration package and are therefore considering taking powers if a Local Transport Bill is introduced to Parliament to enable the Secretary of State to provide increased funds to the Committee for that purpose. This would bring DPTAC into line with other advisory committees, recognising the valuable and important contribution that the Committee makes. The exact level of remuneration would be determined by the Secretary of State in due course.

More information on the work of the Committee can be found at [www.dptac.gov.uk](http://www.dptac.gov.uk).





### 3. Improving the quality of local bus services

Buses play a key role in our transport system. They account for two thirds of all journeys made by public transport. The post-war decline in bus patronage is now levelling off, and we have seen the first year-on-year increases in patronage for decades. However, in too many places the current framework is still not delivering the quality of service that passengers expect.

Last year, we carried out an extensive review of bus services across the country, and in December published a set of policy proposals designed to help improve the standard of bus services.

Those proposals were widely welcomed, including by bus operators, local authorities and passenger groups. Following further discussions with key stakeholders, we are now bringing forward specific legislative proposals in the draft Local Transport Bill. Taken together, these proposals constitute a balanced package of measures, which would:

- promote more effective partnership working between local authorities and bus operators, to deliver services that are better matched to the needs of passengers in their local areas;
- make the implementation of 'quality contracts' schemes a realistic option in areas where it is in the public interest for local authorities to take greater control over bus services;



- **provide a new regime to deliver better punctuality, for the first time holding local authorities as well as bus operators to account for their contribution to punctuality performance; and**
- **support further development of the community transport sector, by removing unnecessary restrictions and by streamlining the system for issuing permits to community transport providers.**

**These proposals will help to secure modern, reliable and affordable bus services that are better tailored to the needs of the travelling public.**

### **(i) Policy context**

3.1 Buses are a crucial part of our transport system. Two thirds of all public transport journeys – over 4 billion trips a year – are made by bus. They are a lifeline for many of our communities. They have a key role to play throughout the country if we are to meet the challenge of rising congestion on our roads, and to sustain future travel demand while respecting the environment. The ability to guarantee specific improvements in bus service provision will be especially important in areas that choose to put in place local road pricing schemes as part of their strategy to tackle congestion (see Chapter 5).

3.2 Bus patronage has been on a downward trend since the 1950s, but we have seen the first signs of a turnaround, with the first year-on-year increases in patronage in decades. However, the quality of bus services still varies markedly from place to place. It is for this reason that, last year, we undertook an extensive review to assess the future prospects for the bus sector, and to identify the factors that could help to secure a more sustainable future for bus services. In December we set out our findings and policy proposals in *Putting Passengers First*<sup>2</sup>.

3.3 The review identified a number of areas where very real improvements have been achieved through partnership between bus operators and local authorities. But it concluded that, in too many places, bus services are still not meeting the high standards that the travelling public expects. This includes many of our major cities, where bus patronage continues to fall. Without further action, we risk bus services in more and more of our communities becoming locked into a vicious cycle of decline. Such decline erodes an element of choice for people in deciding how they want to travel and, for those without access to a car, severely restricts their ability to travel to shops, local services and other amenities.

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<sup>2</sup> *Putting Passengers First* – The Government's proposals for a modernised national framework for bus services, Department for Transport, December 2006, <http://www.dft.gov.uk>.



3.4 *Putting Passengers First* outlined a balanced package of policy proposals to address these challenges, for discussion with key stakeholders. The proposals were designed to enable more areas to replicate the successes that have already been achieved in some parts of the country, and so to secure a more sustainable long-term future for the bus sector. The review made clear that there is no single approach that will work everywhere, and the intention was to provide a variety of policy options to suit different local needs and circumstances. The proposals are designed to enable the strengths of the private sector to be harnessed more effectively to meet the needs of the travelling public.

3.5 Box 3.1 below provides a brief summary of the current framework within which local bus services operate. It sets the context for the proposals described later in this Chapter and contained in the draft Bill.

### Box 3.1: The current framework for local bus services

The current structure of the bus market in Great Britain (outside London) was established by the Transport Act 1985. This is essentially a deregulated structure: any holder of a Public Service Vehicle operator's licence may operate bus services, having first registered various details with the relevant traffic commissioner. The traffic commissioners are responsible for enforcing compliance with these registered details, including standards of reliability and punctuality.

A number of local authorities have chosen to enter into **voluntary partnership agreements** with individual bus operators in their areas. Typically, these agreements involve investment by the local authority in improved facilities for buses, and by the operator in providing better-quality vehicles or services.

The Transport Act 2000 provided additional powers for local authorities to implement two kinds of scheme:

- **quality partnership** schemes, which can involve multiple operators in a single scheme and can be enforced by the relevant traffic commissioner; and
- **quality contracts** schemes, which involve suspending the deregulated market in a specific area. Under such schemes, the local transport authority lets exclusive contracts to operators through a competitive tendering process, to run the services specified by the scheme.

No quality contracts schemes have so far been implemented under the 2000 Act, and only one quality partnership scheme has been made so far.

#### *London*

By contrast to the rest of the country, bus services in London were not deregulated in the mid 1980s. Since the privatisation of London Buses Ltd, services have been run by private operators under contract to the relevant public authority – now Transport for London.

## **(ii) Development of policy proposals**

3.6 As described above, the development of the policy proposals set out in *Putting Passengers First* was informed by an extensive review of the bus sector. This review included a programme of Ministerial and official meetings and visits involving a wide range of interested parties from across the country, including bus operators, passenger groups and local government.

3.7 The development of policy proposals has also been informed by the House of Commons Transport Committee's report on *Bus services across the UK*, to which we responded in February 2007<sup>3</sup>, and by Sir Rod Eddington's advice to government following his study of the relationship between transport and the economy.

3.8 Since the publication of *Putting Passengers First*, we have been discussing our proposals with key stakeholders, including through the Bus Partnership Forum<sup>4</sup>. Working groups have been set up under the auspices of the Forum to advise the Department as it continues to develop the more detailed aspects of the proposals.

## **(iii) Proposals in the draft Bill**

3.9 The draft Bill includes proposals in six broad areas, which are described in turn in the remainder of this Chapter:

- (a) voluntary partnership agreements;
- (b) quality partnership schemes;
- (c) quality contracts schemes;
- (d) punctuality performance;
- (e) community transport; and
- (f) other measures.

3.10 The proposals in (a) to (e) are based on those set out in *Putting Passengers First*. In addition, we are putting forward some additional measures described under (f) below.

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<sup>3</sup> *Bus services across the UK: Government Response to the Committee's Eleventh Report of Session 2005-06*, HC 298, February 2007.

<sup>4</sup> The Bus Partnership Forum is a cross-industry and local government group chaired by Gillian Merron MP, Parliamentary Under Secretary of State for Transport.

### a) Voluntary partnership agreements

3.11 In many places, voluntary partnership agreements made between local authorities and bus operators have made an important contribution to improving services and increasing patronage. These have, in general, been bilateral agreements involving a local authority and a single bus operator.

3.12 Where local authorities wish to enter into negotiations with two or more operators to implement a more coherent pattern of services, they must ensure that agreements are compatible with UK and EC competition law, as set out in the Competition Act 1998 and Articles 81 and 82 of the Treaty establishing the European Community (“the Treaty”) respectively (see Box 3.2). Stakeholders have raised concerns that the wording of the relevant provisions does not translate easily to the bus market, and that it is therefore difficult for them to be satisfied that they have passed the relevant tests.

3.13 The draft Bill includes provisions designed to **facilitate voluntary partnership agreements (“VPAs”) between local authorities and multiple bus operators, which may cover minimum frequencies, timings and maximum fares, as appropriate** (clause 24 and Schedule 2).

3.14 The draft Bill would provide that where such agreements include more than one operator, or where a local authority makes a series of apparently bilateral agreements with different operators which, taken together, might have the effect of preventing, restricting or distorting competition, those agreements must pass a revised version of the competition test set out in Schedule 10 to the Transport Act 2000. Our intention is that this revised test should apply in place of that in section 9 of the Competition Act 1998, which currently applies. The reason we are proposing a revised test is that the existing Schedule 10 test relates solely to bus functions of local authorities, which would not normally be subject to domestic competition law, whereas the nature of VPAs means that they would.

3.15 This “revised Schedule 10 test” has been drafted so as to ensure that any agreement which satisfies it is also compatible with the existing provisions in Part 1 of the Competition Act 1998 and fully compliant with Article 81 of the Treaty which applies where there is an effect on trade between Member States – but would (like the current Schedule 10 test) be more closely tailored to the bus market.

3.16 For agreements subject to the revised Schedule 10 test, the relevant provisions in Chapter 1 of Part 1 of the Competition Act 1998 could be disapplied. EC competition law would, of course, continue to apply and agreements, etc., which have as their object or effect the prevention, restriction or distortion of competition within the common market would have to pass the test in Article 81(3) of the Treaty.

3.17 The new clause would have effect in England and Wales (outside London). Box 3.4 below invites specific comments from stakeholders on this, and other, competition matters.

### **Box 3.2: Competition legislation – the existing tests applicable to the bus market**

There are currently three competition tests which may – depending on the circumstances – relate to bus activities:

- the “Schedule 10 test” which applies to the exercise of certain functions by local authorities;
- the “Competition Act” test which applies to agreements<sup>1</sup> between bus operators and unilateral conduct by dominant bus operators; and
- Articles 81 and 82 of the Treaty.

The draft Bill proposes a new test for VPAs which (like the Schedule 10 test), would be tailored to the bus market, but (like the Competition Act test) is fully compliant with European competition legislation.

#### ***(i) The competition test in Schedule 10 to the Transport Act 2000 (the “Schedule 10 test”)***

The competition test in Schedule 10 is the yardstick for judging whether the exercise by local authorities of certain bus functions has been carried out with due regard to competition. It recognises that a balance may need to be struck between competition and other socially desirable objectives.

The test applies to the exercise of functions relating to the:

- making and varying of quality partnership schemes under the Transport Act 2000;
- making and varying of joint and through ticketing schemes under the Transport Act 2000; and
- invitation and receipt of tenders for non-commercial, socially necessary bus services under the Transport Act 1985.

The test comprises the following steps:

1. Does the exercising of the function have a significantly adverse effect on competition? (If not, it meets the competition test).
2. If there is a significantly adverse effect, is this justified because the intention is to:
  - secure improvements in the quality of vehicles or facilities; and/or
  - secure other improvements of substantial benefit to users of local bus services; and/or
  - reduce or limit traffic congestion, noise or air pollution?

3. Is the adverse effect on competition proportionate to what is needed to achieve the intentions described under (2) above, or likely to be so?

If any adverse effect on competition is justified and proportionate, then the exercising of the function has passed the Schedule 10 test.

***(ii) The competition test in section 9 of the Competition Act 1998 (the “Competition Act test”)***

Section 2 of the Competition Act 1998 prohibits agreements between undertakings, decisions by associations of undertakings or concerted practices which may affect trade within the United Kingdom, or relevant part of the United Kingdom, and which have as their object or effect the prevention, restriction or distortion of competition within the United Kingdom. This is known as the Chapter 1 prohibition.

An agreement is exempt from the Chapter 1 prohibition if it passes the test set out in section 9 of the Competition Act 1998. An agreement is exempt if it:

(a) contributes to

- (i) improving production or distribution, or
- (ii) promoting technical or economic progress,

while allowing consumers a fair share of the resulting benefit; and

(b) does not

- (i) impose on the undertakings concerned restrictions which are not indispensable to the attainment of those objectives, or
- (ii) afford the undertakings concerned the possibility of eliminating competition in respect of a substantial part of the products in question.

***(iii) The competition test in Article 81(3) of the Treaty***

Article 81(2) of the Treaty prohibits agreements between undertakings, decisions by associations of undertakings and concerted practices which may affect trade between Member States and which have as their object or effect the prevention, restriction or distortion of competition within the common market.

An agreement is exempt from this prohibition if it passes the test in Article 81(3). The wording of that test is the same as the test in section 9 of the Competition Act 1998.

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<sup>1</sup> For the purposes of this document, ‘agreement’ means an agreement between undertakings, decision by an association of undertakings or concerted practice.

### Box 3.3: Competition legislation – the proposal for a revised Schedule 10 test

Under proposals in the draft Bill (clause 24 and Schedule 2), a “revised Schedule 10 test” would apply to agreements between local authorities and more than one operator. It would also apply to a series of apparently bilateral agreements between local authorities and *individual* operators which, taken together, might have the effect of preventing, restricting or distorting competition.

It would operate in a similar way to the Schedule 10 test. It would apply to any voluntary partnership agreement that would otherwise be subject to the test in section 9 of the Competition Act 1998, that is to say an agreement which has as its object or effect the prevention, restriction or distortion of competition. The revised test would be passed if the agreement would achieve the intentions described in paragraph 2(3) of the Schedule 10 test (ensuring improvements to services for passengers or limiting traffic congestion, noise or air pollution) and also satisfied part (b) of the Competition Act test (see Box 3.2 above). Subject to final conclusions about the role of the Office of Fair Trading (see question v in Box 3.4 below), it would fall to the parties to the agreement to demonstrate that the test had been met.

#### b) Quality partnership schemes

3.18 Under the provisions of the Transport Act 2000, local authorities who make quality partnership schemes can require participating operators to provide various ‘standards’ of service. These cannot include specifications as to the frequency or timings of services, or fares. In *Putting Passengers First*, we explained that we proposed to amend the Transport Act 2000 so that such schemes could cover frequencies, timings and maximum fares – within limits:

- **on timetabling**, specifying a minimum frequency (leaving open the possibility of operators within or outside the scheme adding additional services); and
- **on fares**, we made clear we were not suggesting that fares should be determined as part of a quality partnership scheme, but that we could see attractions in allowing for the setting within such schemes, by agreement, of maximum fares or a minimum period between successive maximum fare increases, provided that any significant adverse effect on competition is likely to be proportionate to the achievement of the benefits identified.

3.19 We also proposed changes to address a potential obstacle identified by stakeholders – namely that improvements specified in a quality partnership scheme must all be put in place at the same time. It is not currently possible for new facilities and improved standards to be phased in over time within a single quality partnership scheme.

3.20 The draft Bill therefore includes provisions which would:

- **allow quality partnership schemes to cover minimum frequencies, timings and maximum fares, as appropriate** (clause 3). We are working in parallel with the industry and local authorities to develop this proposal. Any provision on maximum fares would need to include a process for agreeing the fare level with the operators concerned;
- **allow new facilities and standards in a quality partnership scheme to be phased in at pre-arranged intervals** (clauses 4 to 6), rather than all having to be put in place simultaneously; and
- **replace the requirement that quality partnership schemes must “implement the policies set out in [the local authority’s] bus strategy” with a requirement for it to contribute to the implementation of their local transport policies** (clause 3(2)). This proposal reflects the fact that a number of local transport authorities are exempt from the requirement to produce bus strategies, and that, under the proposals described in Chapter 4, PTAs would no longer be required to produce separate bus strategies. In addition, the purpose of a quality partnership scheme may relate to broader matters – for example to encourage more people to travel by bus in the context of a demand management scheme (such as a local road pricing scheme). Clause 2 defines “local transport policies” as policies developed under section 108(1)(a) of the Transport Act 2000.

3.21 These provisions would apply in England and Wales (outside London).

#### **Box 3.4: Competition legislation – issues for consultation**

As outlined above, we have included within the draft Bill a proposal for a new competition test, designed specifically to apply to certain voluntary partnership agreements. But we would also like to take the opportunity to review the way competition legislation relates to bus agreements more generally.

We would therefore welcome the views of stakeholders on the following points:

- (i) the proposal in the draft Bill for a “revised Schedule 10” test would leave in place and unchanged the existing competition test in Schedule 10 which applies to the functions of making and varying quality partnership schemes, making and varying ticketing schemes, and inviting and accepting tenders for subsidy contracts. We would however welcome views on whether it continues to be necessary to retain any specific competition test relating to any or all of these functions;



- (ii) the draft Bill currently does not apply the “revised Schedule 10 test” to agreements between undertakings, decisions by associations of undertakings and concerted practices arising out of the making of a quality partnership scheme, even though such agreements etc. might be more likely to occur once frequencies, timings and fares can be part of such a scheme. These would continue to be subject to the appropriate provisions in the Competition Act 1998. We would welcome comments as to whether such agreements etc. should be made subject to the “revised Schedule 10 test”;
- (iii) with the proposed introduction of the “revised Schedule 10 test” we intend to disapply the Chapter 1 prohibition in the Competition Act 1998 in respect of agreements that are subject to the revised test. This test would be no less stringent than the Competition Act test but, because it is specifically tailored for the bus market, may have advantages in that it is clearer. We welcome views as to the merit of this;
- (iv) the draft Bill does not specifically address enforcement in relation to the revised Schedule 10 test. A subject for further consideration is whether all the enforcement provisions in Chapters 3 and 4 of Part 1 of the Competition Act 1998 should be applied. We will be developing proposals in this area in conjunction with the Office of Fair Trading (OFT) in parallel to this consultation, but would welcome the views of stakeholders on the current and any alternative regime; and
- (v) under Schedule 10 to the Transport Act 2000, local authorities and operators can apply to the OFT for a decision as to whether the exercise or proposed exercise of functions to which that Schedule applies meet the competition test. The OFT strongly believes these provisions should be removed as they are inconsistent with the procedures in other markets and enforcement of EC competition law in other Member States. We would welcome the views of stakeholders on the removal of these provisions.

### **c) Quality contracts schemes**

3.22 In some circumstances, quality contracts schemes could be an effective way for local authorities to secure a coordinated network of bus services in their areas.

3.23 Under current legislation, a quality contracts scheme cannot be made unless it is the “only practicable way” for a local authority to implement a policy in its bus strategy. It is widely argued that this test sets too high a hurdle for local authorities to meet in practice: a scheme that was not the



“only practicable way” could still be demonstrably in the public interest, but would not be permissible under the current legislation.

3.24 At present, a quality contracts scheme in England must be approved by the Secretary of State before it can be implemented. In the wider context of the Local Government White Paper, which highlighted the importance of ensuring appropriate freedom and flexibility at a local level, we believe that this now places decision-making at the wrong level in relation to schemes in England. Moreover, because the current decision-making process must be fair, open and impartial, it inhibits Ministers and officials from discussing proposed schemes, let alone working with authorities to develop them.

3.25 The current arrangements also limit quality contracts schemes to a ten-year period, within which individual contracts can last no longer than five years. Initial market testing in some areas suggests that a five-year period may be insufficient to encourage operators to innovate and invest. This framework also rules out the possibility of providing incentives to operators through contract extensions where performance has exceeded expectations.

3.26 The draft Bill therefore includes provisions which would:

- **replace the “only practicable way” test with a new set of “public interest” criteria (clause 7) and a new requirement for the local authority to publish a consultation document setting out various details of the proposed scheme (clause 8).** These provisions would apply in England and Wales (outside London).

The proposed new test is described in Box 3.5 below. It seeks to enable schemes to be introduced where appropriate, while ensuring that they are transparent, offer clear benefits to passengers, and can be funded. We consider that replacing the “only practicable way” test should make the crucial difference in enabling authorities to implement quality contracts schemes where they are demonstrably in the public interest;

- **reform the current arrangements for approval of quality contracts schemes in England (outside London) (clauses 9 to 12).** The draft Bill would create a new Approvals Board for quality contracts schemes, chaired by a traffic commissioner (who would generally be the senior traffic commissioner – see Chapter 6). Schemes in England would need to be approved by this Board, in place of the current requirement for approval by the Secretary of State. Along with the traffic commissioner, an Approvals Board would include two assessors drawn from a panel appointed by the Secretary of State. We would expect this panel to include members with expertise in economics and transport planning.

The draft Bill also provides for a right of appeal to the Transport Tribunal<sup>5</sup> against decisions of the Approvals Board. Providing this new

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<sup>5</sup>The Tribunals, Courts and Enforcement Bill, currently before Parliament, includes measures to reform the tribunal system. If enacted, these provisions could have consequences for the drafting of the Local Transport Bill; any necessary changes would be included in subsequent versions of the draft Bill.

appeal route should limit the need for recourse to judicial review, which is time-consuming and limited in the redress it can provide. The Tribunal currently comprises judicial members (who must be legally qualified), and lay members (who have experience in transport operations and its law and procedure). We recognise that the proposed new appeal function would be a significant extension of the Tribunal's role, and it would be important to ensure the pool of lay members included knowledge of the bus industry and relevant economic expertise;

- **allow individual contracts within a quality contracts scheme to run for up to ten years**, in place of the current five-year limit (clause 16). This would apply in England and Wales (outside London);
- **allow a quality contracts scheme to be extended beyond the ten-year limit** (clauses 17 to 21), subject to certain requirements and to the approval of the Approvals Board (for England) or the Welsh Ministers (for Wales). This would be possible only where the scheme had achieved its stated objectives, and where there would be public benefit in an extension;
- **replace the link to the local authority's bus strategy with a link to local transport policies** in England and Wales (outside London) (clause 7), as proposed for quality partnership schemes; and
- **allow the phasing-in of quality contracts schemes** in England and Wales (outside London) (clauses 13 to 15), as proposed for quality partnership schemes.

3.27 The draft Bill does not include any transitional provisions for cases where local authorities are already in the process of developing a quality contracts scheme under the existing legislation when the amendments proposed in the draft Bill come into force. We will review the need for any such provisions in the light of consultation responses.

#### **Box 3.5: The proposed new 'public interest' test for quality contracts schemes in England**

The proposed new test would state that, before making a quality contracts scheme, the proposing authority must publish a consultation document which:

- a) describes the proposed scheme, including the services to be provided as part of it;
- b) explains how the scheme will:
  - (i) increase<sup>1</sup> the use of local bus services in the local area;
  - (ii) bring benefits to passengers by improving the quality of local bus

services. Benefits might include, for example, reduced waiting times, faster journeys or more comfortable vehicles;

- (iii) contribute to the implementation of the authority's transport policies;
- (iv) do so in a way that is economic, efficient and effective; and
- (v) ensure that, if the scheme is likely to have a significant adverse effect on competition, this effect is proportionate to the benefits it is expected to deliver;<sup>2</sup>

c) describes the local arrangements which the authority will put in place to deliver the scheme;<sup>3</sup>

d) explains how the authority will meet the costs they expect to incur; and

e) includes a declaration by the local authority chief finance officer that appropriate financial arrangements can be put in place to meet any costs incurred by the local authority.

### *Guidance*

The draft Bill includes a requirement (clause 22) for local authorities to have regard to any guidance published by the Secretary of State (in England) or the Welsh Ministers (in Wales) as regards quality contracts schemes. If these provisions are enacted, we intend to publish guidance to assist local authorities in preparing consultation documents. We will be developing the guidance, in consultation with stakeholders, in parallel with development of the legislation.

### *Quality contracts schemes and smaller bus operators*

We envisage that such guidance would need to highlight the importance of considering the potential effects of a quality contracts scheme on smaller bus operators. In many areas, smaller operators currently have a significant market presence, but may not be well placed to compete for large contracts.

An approach along the lines of that taken in London, where contracts are let on a route-by-route basis, would maximise the opportunity for smaller operators to compete. However, it could also have implications for the overall costs of the tendering process, including bid costs for operators in general. It would be for local authorities to decide how best to balance these considerations, and to explore other options that might help to ensure an ongoing role for smaller operators, according to local circumstances.

<sup>1</sup> For the purposes of the draft Bill, references to increasing the use of bus services include a reference to reducing, arresting or reversing decline in the use of bus services.

<sup>2</sup> This is to ensure that the local authority, and the appropriate approvals authority, can be satisfied that there is a proper balance between the effects on the free market and the public interest benefits of such a scheme.

<sup>3</sup> This might include, for example, the arrangements for tendering and managing the scheme, and/or for putting in place complementary bus priority measures.

#### **d) Punctuality**

3.28 Punctuality and reliability are key concerns for existing and prospective users of local bus services. The traffic commissioners have powers to penalise operators who fail to run services in accordance with their registered timetable, but these powers are limited in scope and can be difficult to use in practice. As a result, they tend to be used only sparingly.

3.29 A significant constraint is that the traffic commissioners have limited access to performance data relating to specific operators and routes, without which it is difficult to identify and address areas of under-performance. They also have no formal powers over local authorities, despite the fact that some of the causes of poor bus service performance (such as the provision and enforcement of bus priority measures, and coordination of road works) are within the control of local authorities.

3.30 We therefore propose to develop a new punctuality performance regime, in which both local authorities and bus operators can be held more strongly to account for their contribution to bus punctuality. We recognise that the proposed regime would involve a significant extension of the traffic commissioners' responsibilities, and Box 6.1 in Chapter 6 considers this issue further.

3.31 Proposals for this new punctuality regime are currently being discussed with stakeholders but are likely to cover three areas, described below.

#### *Collection and provision of bus punctuality data to the traffic commissioners*

3.32 The provision of summary data on punctuality standards would enable the traffic commissioners to pinpoint areas of consistent under-performance, and hence to investigate the underlying causes. It might also be appropriate for the traffic commissioners to be able to request more detailed data under certain circumstances, for example to assist them in these investigations.

3.33 An increasing number of buses are now equipped with satellite positioning devices that would allow operators to collect such data automatically.<sup>6</sup> However, we recognise that a requirement to provide data would impose some additional costs on operators, and it will be important to ensure that any such costs are proportionate to the benefits.

3.34 Smaller operators might be particularly affected by a requirement of this kind, and there may be a case for different requirements to be applied to those operators. We will continue to discuss the options and practicalities with key stakeholders through the Bus Partnership Forum, and this consultation invites views from all interested parties.

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<sup>6</sup> GPS has been piloted in London and will be rolled out for all London buses. Many bus operators outside of London already have or plan to use GPS systems to collect punctuality data. A recent survey, undertaken by the Department, showed around 28% of operators outside London were currently using GPS, amounting to 53% of the buses in the sample.

3.35 At this stage, we consider that existing provisions in section 6(9) of the Transport Act 1985 provide the necessary primary powers for this aspect of the proposed new regime. Regulations could be made under this section to require operators to provide information in a specified format and at a specified frequency to the traffic commissioners. Where appropriate, different requirements could be placed on different types or sizes of operator. On the basis of our current policy, we do not consider that further primary powers are needed.

#### *Relationship between traffic commissioners and local traffic authorities*

3.36 The aim here is to support the traffic commissioners in identifying and addressing the causes of poor punctuality, whether bus operators or local authorities are primarily responsible.

3.37 The draft Bill therefore includes powers (clause 32) for the traffic commissioners in England and Wales to:

- require local authorities to attend or give evidence to support their inquiries into poor punctuality;
- require local traffic authorities to supply the traffic commissioners with information connected with the performance of their network management duties under the Traffic Management Act 2004;
- prepare a report recommending the implementation of remedial measures that could be taken by the bus operator or the local traffic authority. This would encourage local traffic authorities and operators to engage in taking steps to seek to improve punctuality; and
- where the traffic commissioner decided to send them a copy of such a report, the Secretary of State (in England) or Welsh Ministers (in Wales) would be able to consider the evidence contained in it, in considering whether to exercise their powers to issue an Intervention Notice under the Traffic Management Act 2004. The decision on whether to exercise those powers would still rest with the Secretary of State or Welsh Ministers as appropriate.

#### *Powers available to the traffic commissioners where bus operators are demonstrably failing to provide an acceptable service*

3.38 We consider that the current penalty regime is basically fit for purpose, but there are some practical limitations in the arrangements that could usefully be addressed. The draft Bill therefore includes provisions (clause 31) to:

- **ensure that where conditions are attached to a bus operator's licence, those conditions may also be attached to other licences held by the same operator or held by another undertaking within the same group.** This would remedy the current situation, whereby some operators can circumvent licence conditions applying to one subsidiary simply by transferring the relevant services to another subsidiary within the same operating group; and

- **enable one traffic commissioner to direct another traffic commissioner to apply conditions to licences held in another traffic area by the same operator, or by another undertaking in the same group.** The traffic commissioner receiving that direction must then attach the relevant licence condition, unless he considers there is a good reason not to.

3.39 These provisions would apply throughout England and Wales, but only clause 31 would apply (to a limited extent) in London.

### e) Community transport

3.40 The community transport sector plays an important role in operating services that cannot be provided by conventional bus services. Because the sector responds to demands that commercial operators have not been able to meet, we consider that there is scope to expand the role of the community transport sector without having a significant adverse effect on commercial operators.

3.41 We have identified some restrictions in the community transport regulatory regime that may unduly constrain the sector's development. These include limitations on the size of vehicles that can be run by community transport operators, and a restriction on payment for drivers on certain services. There is also scope to simplify the system under which permits are issued under section 19 of the Transport Act 1985 to certain bodies (educational, religious and social welfare) enabling them to operate services for the benefits of their members.

3.42 In relation to local services for the general public, provided under section 22 of the Transport Act 1985, the draft Bill therefore includes provisions (clause 30) to:

- allow drivers on those local services to be paid; and
- allow vehicles of more than 16 seats to be used on those services.

3.43 In relation to services for particular educational and other bodies, provided under section 19 of the same Act, the draft Bill includes provisions (clauses 27 to 29) to:

- allow the use of vehicles with fewer than nine seats, as well as larger vehicles; and
- simplify the permit issuing system so that, in future, all permits are issued by the traffic commissioners. The draft Bill includes transitional provisions enabling existing permits which have been issued by bodies designated by the Secretary of State under section 19(7) of the Transport Act 1985 (which would be repealed) to continue to have effect.



3.44 The provisions relating to community transport would apply throughout Great Britain.

#### **f) Other measures**

3.45 The draft Bill also includes a number of additional proposals relating to the bus sector.

##### *“Taxi-bus” services*

3.46 At present, taxi owners are eligible to apply for a “special restricted” PSV operator’s licence, specifically to enable them to register and operate local bus services. As a further measure to assist community-based transport, the draft Bill includes a provision to extend similar eligibility to holders of a private hire vehicle (PHV) licence (clause 26). This would apply in England and Wales (including London).

##### *Increased flexibility for local authorities*

3.47 The draft Bill includes provisions to remove unnecessary regulation or increase flexibility for authorities in England and Wales (outside London), by:

- **amending the rules which permit local authorities to subsidise services**, so as to provide more flexibility for authorities and facilitate more investment (clauses 33 and 34). This is to make clear that authorities may subsidise services to increase the standard of service on a particular route (for example in terms of frequency, hours of operation or quality of vehicles), as well as to support the provision of services on a route that would not be provided without subsidy;
- **making a similar amendment to the existing power for the Welsh Ministers to subsidise services in Wales** (clause 35). This would allow them to provide support to improve the standard of service on a particular route, as well as to support the provision of services on a route that would not be provided without subsidy;
- **extending the maximum length of bus subsidy contracts from five to eight years** (clause 36). This would provide greater flexibility for local authorities to secure better value for money and improved services; and
- **removing the requirement for the Secretary of State to give consent in respect of the sale of council-owned bus companies, and related matters** (clause 37).

##### *Appeals relating to traffic regulation conditions*

3.48 Traffic regulation conditions (TRCs) are conditions concerning local bus services which a traffic commissioner may attach to a PSV operator’s licence in specific circumstances. They may do so only if requested by a local traffic authority for the purpose of preventing danger to road users, reducing severe traffic congestion, or reducing or limiting noise or air pollution.

3.49 The right of appeal against such conditions in England and Wales is currently to the Secretary of State whereas the Transport Tribunal is the appellate authority for other decisions made by the traffic commissioners.

3.50 To ensure consistency with the appeals provisions in respect of other functions of the traffic commissioners, the right of appeal in relation to TRCs would in future be to the Transport Tribunal<sup>7</sup> (clause 25). The clause applies in England and Wales (outside London).

#### (iv) Territorial extent

3.51 The provisions described so far in this Chapter would all have effect in **England (outside London)**. Some would also apply in London, as indicated in the relevant places and in the explanatory notes (Volume 3).

3.52 Most of the provisions described here would apply also in **Wales** if the draft Bill were to be enacted in its current form. However, the draft Bill would preserve the existing role for the Welsh Ministers in approving quality contracts schemes proposed by local authorities in Wales. The new Approvals Board for quality contracts schemes (chaired by a traffic commissioner), and the right of appeal to the Transport Tribunal, would therefore not apply in Wales.

3.53 Nearly all of the matters described in this Chapter are devolved in **Scotland**. Only the provisions on community transport (which relate to matters that are reserved for the UK Parliament under the Scotland Act 1998) would apply there.

3.54 None of the provisions would have effect in **Northern Ireland**, where bus services operate within a separate framework.

#### (v) Bus subsidy

3.55 *Putting Passengers First* noted that there is potentially a case for refocusing central government bus subsidy (the Bus Service Operators Grant). For example, there might be a case for providing a more direct linkage between subsidy levels and our goals of increasing bus patronage; tackling congestion; and improving accessibility, environmental performance, punctuality and quality of passenger experience.

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<sup>7</sup> See footnote 5.



3.56 However, it would be important to understand fully the potential impact of any reform to the subsidy regime before deciding whether to bring forward proposals. The Department for Transport is considering these issues further with stakeholders. It is discussing them with bus operators and local authorities under the auspices of the Bus Partnership Forum, including whether there is a good case for reforming bus subsidy to focus it more closely on our priorities, such as congestion, the environment and accessibility. This will include considering the case for greater devolution of subsidy, particularly where local authorities introduce quality contracts schemes.

### Questions for consultation

**Q1: What are your views on the proposals relating to:**

- (a) voluntary partnership agreements;**
- (b) quality partnership schemes;**
- (c) quality contracts schemes;**
- (d) bus punctuality;**
- (e) community transport; and**
- (f) other measures?**

**Q2: What are your views on the specific questions relating to competition legislation (Box 3.4)?**

**Q3: Do the proposed “public interest” criteria for quality contracts schemes cover the right issues (Box 3.5)? Do they strike the right balance between making schemes a realistic option and protecting the legitimate interests of bus operators?**

**Q4: How can the proposed new bus punctuality regime (paragraphs 3.32 to 3.39) best be designed to achieve the desired benefits at minimum cost, particularly for smaller operators?**

**Q5: Do the proposals to amend the existing powers relating to subsidy contracts provide sufficient flexibility to meet local authorities’ needs (paragraph 3.47)?**





## 4. Reforming local transport governance

**Transport improvements will be better planned and more effectively implemented if they are supported by the right arrangements for taking decisions at a local level. In the Local Government White Paper, the Government undertook to bring forward a package of reforms to enable a more coherent approach to transport to be taken in our major city areas.**

**There is broad consensus that current arrangements for the administration of statutory transport functions (“governance”) do not work as well as they might. The existing legislation relating to local transport governance in cities needs to be updated to reflect changing patterns of transport needs and use.**

**We need to find better ways of ensuring that transport can be planned and managed to provide maximum support for the growing economies of our cities. We also need to encourage strategic decisions on roads and public transport to be taken together in the interests of transport users as a whole. The case for reform is likely to become even stronger as congestion increases.**

**It is clear that much innovative thinking on possible future governance arrangements is taking place in the cities. However, further work is still required in each area to agree where change is**

**needed to existing arrangements and exactly what form that change should take.**

**The draft Bill includes powers to enable cities, and potentially other areas, to review and propose their own changes to existing governance arrangements. The Secretary of State would be able to implement these changes through secondary legislation tailored to the needs of particular areas. Each area would be able to keep its governance arrangements under review and submit further proposals for change in future.**

**We are committed to ensuring that the structures in place in each area reflect what works best locally, rather than a “one size fits all” approach imposed from the centre. Our aim is devolution.**

**There are a few changes which the Government believes would be desirable in all metropolitan counties. These concern, first, the need to update existing powers and duties of the PTAs and, second, the need to provide a stronger process for planning transport by means of an *Integrated Transport Strategy* and accompanying implementation plan.**

### **(i) Policy context**

4.1 The transport improvements which the draft Bill will make possible for buses will be better planned and more effectively implemented if they are supported by the right arrangements for taking decisions at a local level. The strengthened governance arrangements for London which flowed from the Greater London Authority Act 1999 have already demonstrated their effectiveness in improving transport in the capital.

4.2 The proposals in the draft Bill are intended to address the individual needs of our other major city areas, which have themselves identified transport as a critical issue for their sustained economic growth, for example in their Core City Business Cases.

4.3 The key objectives are to ensure that:

- areas have the strong leadership they require to ensure efficient and effective transport services are in place, with those providing this leadership properly accountable to local people;
- the transport network in these areas can make a more effective contribution to sustainable economic development;

- the existing legislation is updated to reflect changing transport needs; and
- we allow the right arrangements to be put in place for each area, taking into account their differences.

### The current position

4.4 Transport strategy and planning in England outside of the metropolitan counties and London is the responsibility of the county council or the unitary authority for that area. These authorities have responsibility for:

- drawing up the Local Transport Plan, at least every five years;
- procuring socially necessary bus services not commercially provided in their areas and commissioning local light rail services (although in both cases the services themselves are delivered by private-sector operators); and
- managing local roads in their area (including carrying out maintenance, adding new capacity, encouraging road safety and implementing traffic management measures, e.g. traffic lights, traffic signs and bus lanes).

4.5 These arrangements allow the authorities to take an overview of transport provision over the whole of their areas, and to drive forward implementation of integrated services supporting their overall strategies. The Commission for Integrated Transport's recent review of *Integrating Transport Delivery Across Government Departments*,<sup>8</sup> supports the conclusion that the ability of these authorities to integrate their planning and delivery across functions enables them to achieve strong results around the country.

4.6 In six of our largest urban areas outside London (West Midlands, Greater Manchester, Merseyside, South Yorkshire, West Yorkshire and Tyne & Wear – the “metropolitan counties”) however, responsibility for different transport functions is split between different authorities. Individual metropolitan district councils (MDCs) are responsible for the local roads and traffic in their areas. Thus no single body is responsible for ensuring that the wider road network across the conurbation as a whole is working effectively.

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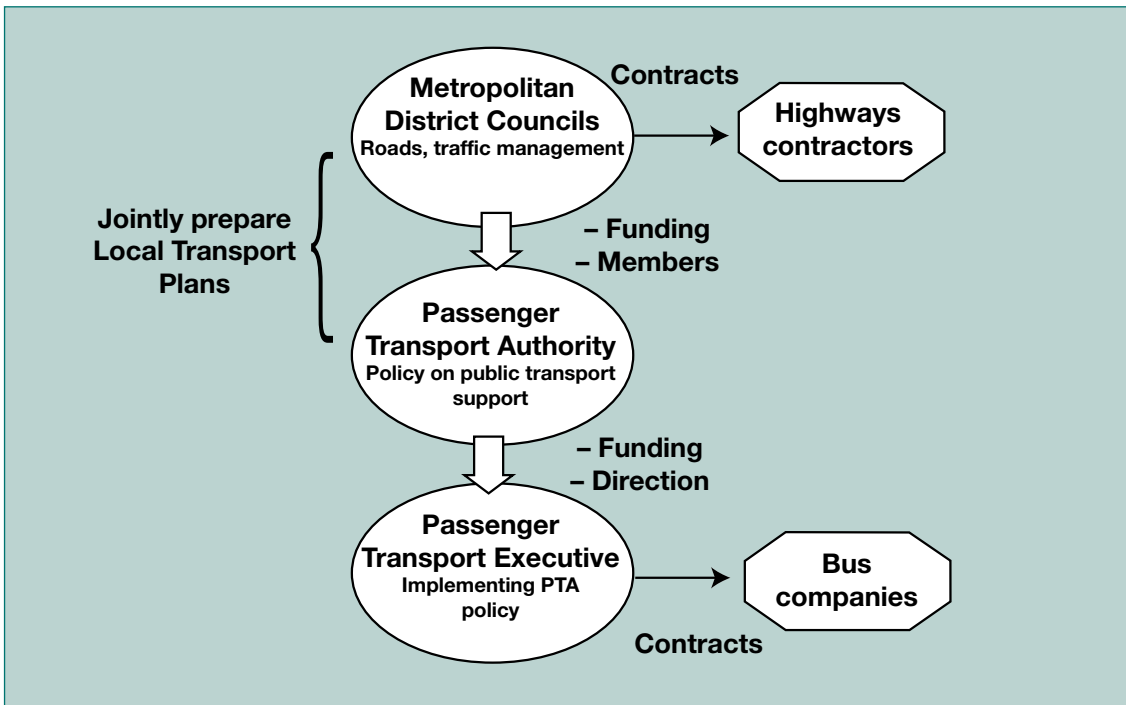
<sup>8</sup> [www.cfit.gov.uk/docs/2006/itd2006/index.htm](http://www.cfit.gov.uk/docs/2006/itd2006/index.htm) – December 2006

4.7 The provision of public transport services on the other hand is the responsibility of Passenger Transport Authorities (PTAs) and Passenger Transport Executives (PTEs), which do cover the whole metropolitan area. PTAs are responsible for setting the overall strategy for public transport in the area and for determining policy on the provision of bus, rail and light rail services. Their membership comprises elected councillors from each of the MDCs in that area, one of whom acts as Chair of the PTA. Currently membership varies from 12 in the South Yorkshire PTA to 33 in Greater Manchester. PTEs are separate statutory bodies, reporting to the PTAs, and have responsibility for implementing the public transport policies drawn up by the PTA.

4.8 The need for PTAs and MDCs to work together despite this split of functions has long been recognised, and the Transport Act 2000 requires both to develop policies jointly and publish them in a Local Transport Plan. The joint Plan must be agreed by all authorities within the passenger transport area.

4.9 Figure 4.1 illustrates these relationships between the various transport bodies in metropolitan counties, while more details on each of the urban areas concerned can be found in Figure 4.2.

**Figure 4.1: Metropolitan areas – relationship of the key bodies**



**Figure 4.2: Passenger transport areas – facts & figures**

Area	Population (millions)	Number of District Councils included in the area	Number of Members on the PTA <sup>9</sup>	Total PTA revenue expenditure (2005/06) £ million	Total MDC transport revenue expenditure £ million
<b>Greater Manchester</b>	2.55	10	33	155	100
<b>Merseyside</b>	1.37	5	18	158	62
<b>South Yorkshire</b>	1.29	4	12	74	41
<b>Tyne and Wear</b>	1.10	5	16	54	43
<b>West Midlands</b>	2.59	7	28	147	117
<b>West Yorkshire</b>	2.12	5	22	108	70

4.10 Any motorways and trunk roads in the area are the responsibility of the Highways Agency, while rail investment and franchising is led from the Department for Transport.

### The need for change

4.11 It is vital to ensure that transport in our major city areas can work well. The Local Government White Paper, *Strong and Prosperous Communities*, published in October 2006, drew attention to the importance of ensuring that cities can optimise their contribution to sustainable economic growth and compete more effectively in the global economy. It highlighted that our cities (outside London) still lag behind the best-performing cities in the rest of the world. In the White Paper the Government undertook to bring forward a package of reforms to enable a more coherent approach to transport to be taken in these major city areas.

4.12 It has become increasingly clear that the existing legislation which governs transport in cities lacks flexibility and needs to be updated to reflect changing patterns of transport needs and use. Amongst other problems, the existing legislation:

- does not provide sufficient flexibility to allow different arrangements to be put in place in different areas in order to reflect the particular needs of each area. Nor does it allow for the establishment of new PTAs or wider transport authorities, where these are seen as desirable; and

<sup>9</sup> District council representation is in proportion to the population of each, while the representatives of a district must – so far as possible – reflect the political composition of the district.



- does not encourage decisions on roads and public transport in an area to be taken together in the interests of transport users as a whole. If a PTA, for example, wishes to improve the punctuality of a bus service by offering the bus company priority over other road users, it has to secure the agreement of the relevant district council(s) for provision of a bus lane. The district may have little interest itself in the bus lane if, for example, only a minority of the users of the bus service are its own residents. A district on the other hand which wishes to introduce measures to manage demand for road use in its area has to negotiate with the PTA if it considers that new public transport services are needed to support these measures. Again, the PTA's priorities may not match those of the district concerned.

4.13 Much research has been carried out recently to examine how well current transport governance arrangements deliver effective and efficient transport services. These have led to calls for changes to existing arrangements, notably by cities and authorities themselves. For example:

- (a) the eight biggest “core” cities outside London have developed City Region Business Cases, in which they have argued strongly that an effective transport system is a critical spur to improved and sustained economic prosperity;
- (b) the report *Improving Local Transport: How Small Reforms Could Make a Big Difference*<sup>10</sup> – published for the Local Government Association (LGA) – highlighted what it saw as the need to improve the delivery of transport services through a range of reforms to existing transport governance arrangements, particularly those for PTAs and PTEs. A follow-up report, *Prosperous Communities*,<sup>11</sup> reinforced the case for stronger joint working at sub-regional level, but underlined the importance of allowing different areas to identify the governance model which best suited their needs;
- (c) Sir Rod Eddington's Transport Study highlighted some potential barriers which can flow from existing governance arrangements, including the mismatch between existing local government boundaries and the economic footprints of growing and congested urban areas, and the problems arising as a result of transport powers being split amongst a number of different players at a sub-national level;
- (d) Atkins' review for the Passenger Transport Executive Group (PTEG) of the case, and options, for reforming the delivery arrangements and governance of local transport in the six metropolitan areas of England outside London<sup>12</sup>; and

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<sup>10</sup> ISBN 1 84049 520 0 – June 2006.

<sup>11</sup> ISBN 1 84049 540 5 – February 2007.

<sup>12</sup> *Review of Reform Options for Metropolitan Transport Governance*, Passenger Transport Executive Group, January 2007.



- (e) the Commission for Integrated Transport's recent report *Moving Forward: Transport for City Regions*<sup>13</sup> called for better strategic integration of transport in metropolitan areas and identified the need for new primary legislation in order to achieve this.

4.14 The role of sub-regions and city-regions in economic development is also currently being considered as part of the *Review of Sub-National Economic Development and Regeneration*, including the potential benefits of strengthening decision-making for transport and other related policy issues at this spatial level. Progress on this review was reported in Budget 2007<sup>14</sup>. The review is due to conclude before the 2007 Comprehensive Spending Review. We will be considering the findings of the review, and its conclusions on sub-regional governance will need to be taken account of when deciding how to proceed with our proposals on reforming local transport governance.

### **(ii) Development of policy proposals**

4.15 As part of considering the need for change, officials from the Department for Transport and other Government departments held workshops in January 2007 in each of the six metropolitan areas to discuss governance issues with key interests, including officers and members of the PTAs, PTEs and MDCs, regional bodies, transport operators and environmental and business interests. At these workshops we discerned a broad consensus that current governance arrangements for transport did not work as well as they might, although the suggested solutions varied from area to area. There was also a consensus that transport provision in our largest cities needed planning strategically, across the wider city area.

4.16 The draft Local Transport Bill was seen as a welcome opportunity to consider possible change. It is clear that much innovative thinking on possible future governance arrangements is taking place in the cities. However, further work is still needed in each area to agree where change is needed to existing arrangements and exactly what form that change should take.

4.17 Amongst the possible barriers to effective transport planning and delivery mentioned were:

- the lack of a single focus for city-region transport – the “who leads on transport” problem;
- the complex and sometimes unwieldy structure and membership of PTAs and PTEs;
- the difficulties in co-ordinating different transport modes within urban areas, especially given the split between PTA and MDC responsibilities for public transport and roads respectively; and

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<sup>13</sup> [www.cfit.gov.uk/docs/2007/moving/index.htm](http://www.cfit.gov.uk/docs/2007/moving/index.htm) – March 2007.

<sup>14</sup> Budget 2007, HM Treasury, March 2007, [www.hm-treasury.gov.uk](http://www.hm-treasury.gov.uk).

- the challenge of ensuring that PTAs and PTEs can provide effective services for a commuter catchment which now often far exceeds their boundaries.

4.18 It was agreed that all of these problems were likely to become even more significant as congestion problems became more acute.

4.19 Although there was no consensus on what change might be most desirable, those we talked to were able to identify a number of possible alternative arrangements. They referred, for example, to:

- the scope for greater collaboration between authorities. Much has already been achieved despite the limitations of existing legislation, and there are good examples already of joint working across the country – see Box 4.1 below. However, it was recognised that voluntary collaboration depends on the willingness of the various parties to co-operate for the common good;
- the example of London, where legislation provides for much stronger central leadership on transport. Transport for London (TfL) has direct responsibility for a network of strategic roads, and is also responsible for the provision of public transport. In addition, TfL has strong leverage over the London Boroughs, who must prepare Local Implementation Plans to comply with the Mayor’s overall Transport Strategy and whose transport investment funding is distributed through TfL;
- international examples where responsibility for transport, including public transport, highways and traffic management, is sometimes the responsibility of a single strategic transport authority; and
- the scope to develop Multi-Area Agreements, with targets agreed with government for the outcomes to be achieved across the city.

#### **Box 4.1: Examples of effective collaboration**

- In Greater Manchester there are joint transport units within the Association of Greater Manchester Authorities which provide city-wide data, analysis and planning for MDCs on transport schemes, as well as advice on designing, installing and operating traffic signals across the area.
- In South Hampshire the different authorities have formed a Solent Transport Partnership, to improve co-ordination of services, and to put in place voluntary working arrangements to improve the transport network.

***(iii) Proposals in the draft Bill***

4.20 The Government believes that the diversity of opinion in the cities on what change is desirable reflects not only different shades of opinion but the different nature of the cities concerned. There is no reason, for example, why arrangements which work in London should necessarily work in a smaller, multi-centred, conurbations such as West Yorkshire, or why arrangements in Tyne and Wear, where car ownership remains relatively low and there are only five metropolitan districts, should be the same as those in a larger conurbation such as Greater Manchester, with its ten districts.

4.21 The Government is committed to ensuring that the structures in place in each area reflect what works best for them, rather than a “one size fits all” approach imposed from the centre. There also needs to be the necessary flexibility to allow change to be introduced as and when it is needed for each area. This may mean changes being introduced in stages, as the needs of different areas evolve and develop.

4.22 The Government has therefore decided to offer a broad approach at this stage to ensure that any potentially effective options which cities might wish to pursue are not ruled out prematurely. Apart from a few proposed changes which would apply to all six larger cities, the draft Bill has been prepared so as to include a wide range of potential powers which would enable cities and potentially other areas to review, and propose their own amendments to, existing governance arrangements. We will review how far it would be sensible to draw the legislation more narrowly, so as to rule out some options, in the light of responses received during the consultation period.

**a) City-led reviews of governance arrangements**

4.23 The draft Bill proposes (clause 40(3)) that the trigger for changes would be a direction by the Secretary of State requiring a review of the effectiveness of existing governance arrangements in a conurbation by a given date.

4.24 At this stage, the draft Bill does not specify which would be the most appropriate authority or authorities for the Secretary of State to direct to carry out the review of each area; so, according to the circumstances of different areas, it could, for instance, be a combination of authorities working jointly, an individual local authority leading the work on behalf of others, or a PTA. This is an issue on which we would welcome views, but in practice the Secretary of State would expect whichever body or bodies conducted the review to consult widely and reflect the views of other authorities in their findings.

4.25 The relevant body or bodies would, in the light of their findings, publish a scheme which would set out the results of the review and any recommended proposals for change.

4.26 The draft Bill would allow (clause 41) for the Secretary of State to publish guidance on how to carry out a review and prepare a scheme. Amongst other things, this might cover:

- the timetable for the review and scheme;
- what consultation should be carried out as part of the scheme; and
- which aspects of governance the review might particularly need to address (e.g. the structure of the PTA, or how to ensure that decisions on different modes of transport are co-ordinated effectively).

4.27 In preparing a scheme it would be open to each area to conclude:

- that existing arrangements worked sufficiently well that no changes were needed; or
- that changes were needed but that these could be carried out through voluntary arrangements agreed by the main bodies with an interest in transport in that area; and/or
- that changes were needed which would require legislative changes to carry out.

4.28 In drafting guidance, and in considering the schemes proposed by authorities, the Secretary of State would take account of the conclusions of the Sub-National Economic Development and Regeneration Review, and consider whether the proposals on transport governance were likely to fit effectively with wider efforts to achieve economic regeneration.

4.29 The draft Bill provides sufficiently wide powers for the Secretary of State to introduce secondary legislation which would enable the enactment of any changes to existing legislation proposed by an area's scheme (clauses 44 to 53). This would be done through individual Orders covering different areas. These Orders would have to be debated by both Houses of Parliament before they could become law.

4.30 The draft Bill currently provides the flexibility to allow for a wide range of legislative changes to existing arrangements in an area to be made. These include:

- the constitution of an existing PTA (clause 44), including the number of members on the PTA, which bodies they represent, voting, scrutiny and leadership arrangements;
- changes to the existing transport responsibilities of PTA/Es, district councils and potentially the Secretary of State in respect of his responsibilities for the Highways Agency and heavy rail (see Box 4.2) (clauses 45 and 46). This could be done by transferring responsibilities from one body to another, or by leaving formal responsibilities as at present whilst giving different bodies greater opportunity to influence the transport decisions made by others;

- to allow a new PTA/E to be set up or existing PTA/Es to be dissolved (clauses 39 and 50), but the draft Bill specifies that this would require the agreement of the local authorities affected; and
- changes to the geographical area covered by a PTA/E (clause 49), though similarly this would not be possible without the agreement of the bodies directly affected. This could allow the governance arrangements for a conurbation better to reflect transport patterns in an area, for instance travel to work patterns.

4.31 In reviewing their governance, cities may also wish to consider changes in funding arrangements in their area, in particular to ensure clear accountability and transparency, and to ensure that funding decisions can be made at the appropriate level to encourage flexibility between funding streams and foster value for money decisions across the Travel to Work Area. It is likely that most such changes to funding arrangements could be introduced without the need for new legislation. Given that, the draft Bill does not explicitly cover financial matters. Nevertheless, the introduction of some changes to existing arrangements could require changes to primary legislation. We would welcome views on whether the Bill should allow for any additional funding models or options.

#### **Box 4.2: Rail**

Implementation of changes to the railway since the passage of the Railways Act 2005 led to new arrangements being put in place for the involvement of PTAs and PTEs in the specification and franchising of railway services. In particular, PTEs are able to specify increments to (or decrements from) the baseline DfT specification for a franchise. PTEs may also use their discretionary powers to fund improvements to infrastructure. At the same time, changes were made to the roles that the devolved administrations and TfL play in rail. There may be value in developing these approaches in the cities.

A key factor in developing such proposals is whether the body to whom any responsibility is devolved, has the level of accountability and financial capability required to specify services, make trade-offs between modes and manage risks. The draft Bill would provide mechanisms to address city governance issues. To the extent that new governance arrangements improve accountability and capability, it may be possible to consider cities taking a greater role in the specification and funding of local rail services. These proposals would not change rail industry structure, but would allow for rail services to be specified and planned in conjunction with local bus and highway measures.

Our approach to the longer-term challenges facing the railway industry will be set out in a strategic framework to be published in the summer.

4.32 It would be open to the Secretary of State to implement all the governance changes proposed by the area, to make certain modifications to them, or not to implement them if he considers them to be inappropriate. We would, however, hope wherever possible to confine changes to those proposed by the cities themselves.

4.33 Under the draft Bill's proposals, a city would be able to develop its governance arrangements over time. Where an area had carried out reforms to its governance arrangements it would be able to keep these arrangements under review and in due course ask the Secretary of State to issue a further direction to enable it to publish a follow-up scheme proposing further changes. The intention is to provide a dynamic force for devolution. We recognise though that there are some counter-arguments in favour of greater stability. The balance between these arguments is an area where we would welcome views.

4.34 The key principle informing the draft legislation is that it should be for the city regions and others to lead a process of debate locally on who best defines transport policy in their area, to whom they should be accountable, and how the implementation of policy is best overseen. It would also be for each area to propose the necessary changes to the Government.

#### **b) Changes which would apply in all the metropolitan counties**

4.35 Although, as described above, the provisions of the draft Bill have been designed to allow for diversity between areas, there are a few changes which we believe would be desirable in each of the metropolitan counties. These concern: first, the need to update existing powers and duties of the PTAs; and, second, the need to provide a stronger process for planning transport in the largest cities.

4.36 Although these changes have been included in the draft Bill as amendments to the existing powers and duties of the PTA, this will be a matter for further review in the light of consultees' views and the conclusions of the Sub-National Review.

4.37 The draft Bill includes provisions to update the current duties and powers of PTAs, to reflect wider changes across local government and the challenges of climate change brought into focus by the recent Stern Review:

- PTAs will be subject to a broadly drafted statutory duty in the Transport Act 2000 to develop policies and carry out their functions in a way which promotes and encourages "safe, integrated, efficient and economic" transport. We propose to supplement this duty by adding a requirement to have regard to government policies and guidance on climate change, in developing their policies and carrying out their functions (clause 57(4)). This would also apply to individual district councils within the PTA area, as regards carrying out their transport functions;



- to extend to PTAs the “well-being” power which local authorities already enjoy under the Local Government Act 2000 (clauses 60 to 63). This would allow them to do anything they consider could help promote or improve the economic, social and environmental well-being of their area, assuming it is not already expressly forbidden under any other legislation; and
- to give all PTAs powers to participate in the development and implementation of any local road pricing schemes in partnership with local authorities – this is covered in Chapter 5.

4.38 Legislation currently obliges each local transport authority to prepare a Local Transport Plan at least every five years, and additionally a Bus Strategy. In the former metropolitan areas these Plans must be prepared jointly by the PTA and the metropolitan districts, and most areas have established Joint Planning Units to undertake the work.

4.39 In practice local authorities have prepared the Local Transport Plan and the Bus Strategy alongside each other, and in doing so have had regard to the long term Regional Transport Strategy for their region. Some authorities have additionally prepared medium term strategies to provide a context for the Local Transport Plan. There is evidence that the Plans have encouraged authorities to achieve a step-change in the level of consultation and partnership working, to consider their transport objectives against wider goals and to achieve a policy shift in favour of non-car modes.

4.40 Initial discussions with authorities and others have nevertheless highlighted a number of problems:

- the separate requirement for a Bus Strategy and a Local Transport Plan appears anomalous, given the need for the Local Transport Plan to consider all modes;
- the relatively short horizon of the Local Transport Plan can leave a gap where there should be a medium-term strategy;
- in the metropolitan counties there can be a requirement for agreement to the Plans by up to 11 separate authorities. The result can be a dilution of the potential for strong strategic measures to benefit the area as a whole;
- although authorities in the metropolitan counties are obliged to work together in preparing plans, the implementation of the plans can prove vulnerable to, for example, changes in direction as a result of changes in leadership in one or two of the authorities covered;

- although authorities are encouraged to prepare joint plans where they have common transport interests, relatively few have decided to do so. Whilst for example, the travel-to-work areas of our largest cities extend well beyond their boundaries, no metropolitan area has yet done more than consulting its adjoining authorities in preparing Plans, or vice versa. This can lead to inconsistency and potentially wasted effort; and
- there is wide agreement that performance management of transport in our largest cities needs to be undertaken on a city-wide basis. But under the proposals in the Local Government and Public Involvement in Health Bill, responsibility for Local Area Agreements and the targets to be included in them fall on individual metropolitan districts. Our discussions in these areas indicated strong interest in higher level Multi-Area Agreements, at least for transport and possibly for other functions.

4.41 The Eddington Transport Study has stressed that meeting the transport challenges of our largest cities would require a strong process to drive option generation and ensure the most cost-effective use of resources. Sir Rod Eddington proposed that a three-part decision-making cycle should be developed, involving a 20 to 30 year long term outlook, a medium term strategy for delivering outcomes over 10 to 20 years and a 5 to 10 year published statement of commitments.

4.42 The new Performance Framework introduced as a result of the Local Government White Paper, together with the current Sub-National Review, provide an opportunity to review these issues. The Department proposes to consult further on Local Transport Plans later in the summer, and refine the contents of the draft Bill in the light of that consultation. In the meantime:

- we propose to replace various references in the Transport Act 2000 to local authorities discharging their powers in ways that implement the policies set out in the local authority's Local Transport Plan and/or bus strategy with a more general requirement to contribute to the implementation of their local transport policies. This reflects the fact that not all authorities are now required to produce a Local Transport Plan and to enable greater flexibility in future; and
- we offer a possible model for the former metropolitan areas, where the need for a more strategic approach and the interest in possible Multi-Area Agreements is greatest. Subject to the views of consultees, this model might be applied more widely, e.g. to those city regions which do not currently have Passenger Transport Authorities.



4.43 The draft Bill proposes that for the metropolitan counties the current requirement to prepare a Local Transport Plan and a Bus Strategy should be dropped. Instead, there would be a duty on the PTA to prepare an *Integrated Transport Strategy* (ITS) and accompanying implementation plan (clause 58). The draft Bill also proposes that the duty to produce both documents would normally rest with PTAs, in consultation with the MDCs. But as described above, this will be reviewed in the light of the views of consultees and the conclusions of the Sub-National Review.

4.44 Though the draft Bill includes no statutory period for review, we envisage that an Integrated Transport Strategy would probably cover a period of 10 to 15 years, and would provide a sub-regional vehicle for implementing the Regional Transport Strategy in the medium term. We envisage that the accompanying implementation plan would cover a period of 3 to 5 years.

4.45 It is recognised that a requirement to prepare a new strategy at the same time as reviewing governance could place an unnecessary peak of work on authorities. We intend that the first Integrated Transport Strategy would not be required until the existing Local Transport Plan is due to be replaced in 2011.

4.46 We are at this stage specifically looking for a wide range of views on the governance proposals, and we expect to develop them substantially in the light of consultation. In particular, we would welcome views on the questions set out at the end of this Chapter.

#### ***(iv) Territorial extent of proposals***

4.48 These provisions are applicable to England only. The Scottish and Welsh administrations have separately reformed their sub-national arrangements through the Transport (Scotland) Act 2005 and Transport (Wales) Act 2006 respectively.

### Questions for consultation

**Q6: Do you agree that governance arrangements in the metropolitan areas outside London require reform?**

**Q7: Do you agree that there is a need for flexible arrangements which allow for variation in the governance developed for different areas?**

**Q8: Do you agree that the cities themselves should be asked to publish proposals on revised governance? Do you have views on which body or bodies should be asked to prepare those proposals?**

**Q9: Do you agree that the Bill should enable broad changes, or should there be limitations on what change might be allowed?**

**Q10: Do you think that the power to review and amend governance arrangements should allow development over time, or should the powers lapse after an initial review?**

**Q11: Do you agree with the changes we are proposing to the powers and duties of PTAs in all the metropolitan counties?**

**Q12: Do you agree with the proposed changes to Local Transport Plans described in paragraphs 4.43 to 4.45? Should these changes be applied only to the metropolitan counties, or should they be applied elsewhere, for example to other city regions?**



## 5. Taking forward local road pricing schemes

**Rising congestion on our roads, particularly in our towns and cities, is a consequence of a strong and growing economy. But even with the measures we have already planned, congestion is projected to increase by 25 per cent in less than a decade. This could have a significant impact on our future prosperity, environment and quality of life.**

**We cannot simply build our way out of congestion, so we need to look at alternative ways of tackling it. In particular, we need to consider seriously the role that road pricing – as part of a package of measures including better public transport – could play.**

**No decision has yet been taken on whether or not to introduce a national road pricing scheme. In the first instance, we are working with interested local authorities to bring forward local schemes as local solutions to local problems.**

**We expect any local authority interested in developing a scheme to do so as part of a package of measures, including significant investment in complementary transport measures. We have said that we will make funding available from the Transport Innovation Fund from 2008 onwards for schemes in England that combine demand management, including road pricing, with improvements to local transport.**

**The draft Bill would support this strategy by:**

- **ensuring that local authorities who wish to develop local road pricing schemes are free to do so in a way that is best suited to local needs, within a clear framework of local accountability; while**
- **ensuring that any schemes are consistent and interoperable, so as to avoid unnecessary costs and complexity for road users who need to interact with more than one scheme.**

**The draft Bill does not include the powers that would be needed for a national road pricing scheme. Separate legislation would be required if, in the future, a decision was made to introduce such a scheme.**

**(i) Policy context**

5.1 Chapter 2 described the challenges presented by rising congestion on our roads, especially in towns and cities.

5.2 Our policy is to provide additional road capacity where it is justified, and we are investing £1.7 billion for major improvements between 2006 and 2008. However, we cannot simply build our way out of congestion, as the environmental costs would be unacceptable. We therefore also need to ensure that we make the best possible use of our existing road network. The Traffic Management Act 2004 conferred new duties and powers upon local authorities to manage local roads and keep traffic moving. On the motorways and trunk roads, the Highways Agency is working to secure greater performance from the network through improved and innovative network management, for example through Traffic Officers and Regional Control Centres. We are also piloting active traffic management, high occupancy lanes and hard shoulder running.

5.3 But even so, congestion is still projected to increase by another 25 per cent by 2015 in the absence of further action, increasing delays and frustration for motorists. It is estimated that 80 per cent of that congestion would be in our towns and cities. This could have a significant impact on our future economic prosperity, environment and quality of life.

5.4 There is an increasing body of evidence to suggest that, as part of a broader strategy, a well-designed local road pricing scheme has the potential to reduce congestion significantly in the local area. Those areas that decide to take forward a local road pricing scheme can expect to see reduced journey times, improved journey time reliability, significant improvements in public transport provision as part of the package of measures and, depending on scheme design, reductions in emissions of air pollutants and greenhouse gases. This should deliver benefits for all sectors of society, including shoppers, workers and businesses.

5.5 Sir Rod Eddington's study of the relationship between transport and the economy also highlighted the potential for road pricing schemes to deliver economic benefits through reduced congestion and increased journey time reliability. Analysis of one road pricing scenario – a national, distance-based scheme where prices reflected both congestion and environmental costs – suggested congestion could be some 50 per cent below what it would otherwise be in 2025 and annual benefits were estimated at £28 billion by 2025, including £15 billion worth of GDP benefits. The costs of implementing such a scheme would of course have to be accounted for, but there is clear potential for significant benefits.

5.6 However, we believe that a range of important but complex issues would need to be resolved before any decision could be taken to introduce a national road pricing scheme. For example, any scheme would need to take account of important considerations such as fairness, privacy and cost. This is why we have consistently made clear that decisions on whether to implement a national road pricing scheme are for the future, and that there would need to be a full and informed public debate.

5.7 In the first instance, we are working with interested local authorities to bring forward schemes as local solutions to local problems. We expect any local authority interested in developing a scheme to do so as part of a package of measures, including significant investment in complementary transport measures. Evidence from local schemes will then inform the debate for any national scheme.

5.8 In July 2005 it was announced that up to £18 million of 'pump priming' funds was to be allocated between 2005/06 and 2007/08. The first distribution of this funding was made to seven areas in November 2005 following a bidding process. Six of these areas received additional funding in November 2006, along with a further three areas.

5.9 We have been working closely with these leading local authorities, plus Transport for London and Cardiff Council, to pull together knowledge and experience on the traffic problems in these areas and to discuss the potential role of road pricing in these areas.

5.10 To support local schemes in areas where local authorities choose to bring forward proposals, the Department has committed to making available money from the Transport Innovation Fund. Up to £200 million per annum will be made available to local authorities in England from 2008-09 to support schemes involving demand management measures, such as road pricing, if suitable packages are developed by local authorities. If high-quality schemes to a higher value emerge then further funding may be made available.

## (ii) Development of policy proposals

5.11 The existing legislative framework for local road pricing schemes in England and Wales (outside London) was established in the Transport Act 2000. There are separate Acts relating to London<sup>15</sup> and Scotland.<sup>16</sup>

5.12 The development of our strategy on road pricing, including the proposals for legislative reform contained in the draft Bill, has been informed by:

- evidence presented in the Road Pricing Feasibility Study.<sup>17</sup> This study was published in July 2004, overseen by a group of stakeholders and experts;
- experience from existing road pricing schemes in the UK and elsewhere;<sup>18</sup>
- discussions with a wide range of stakeholders, including motoring groups, business representatives, suppliers of road pricing technologies and systems, and academics;
- engagement with local authorities, including those in receipt of pump-priming funding and others at the forefront of thinking on road pricing; and
- the evidence presented to support Sir Rod Eddington's recommendations to government.<sup>19</sup>

## (iii) Current arrangements

5.13 In many respects, the existing legislative framework is well suited to support the delivery of government policy on local road pricing. In particular, current legislation provides that:

- **it is for local authorities to decide whether to propose road pricing schemes in their areas**, and to design those schemes and accompanying transport improvements to suit their local circumstances and priorities. Local authorities are responsible for setting prices and charge structures, including decisions on whether to vary charges by factors such as time, place and vehicle characteristics such as emission standards or other environmental criteria;

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<sup>15</sup> Greater London Authority Act 1999.

<sup>16</sup> Transport (Scotland) Act 2001.

<sup>17</sup> <http://www.dft.gov.uk/pgr/roads/roadpricing/feasibilitystudy>.

<sup>18</sup> For example: Commission for Integrated Transport *World Review of Road Pricing*, December 2006, <http://www.cfit.gov.uk/docs/2006/wrrp/index.htm>.

<sup>19</sup> *The Eddington Transport Study*, December 2006, [http://www.hm-treasury.gov.uk/independent\\_reviews/eddington\\_transport\\_study/eddington\\_index.cfm](http://www.hm-treasury.gov.uk/independent_reviews/eddington_transport_study/eddington_index.cfm).



- **revenues are to be retained by the local authority, to be spent on transport-related measures.**<sup>20</sup> An increasing body of evidence suggests that local road pricing schemes can be more acceptable to the public if revenues are clearly and transparently being used to improve transport in the local area. Pricing schemes are also likely to be more effective in tackling congestion if, at the same time, steps are taken to give more people a realistic alternative to private car use. Our proposals for improving the quality of local bus services, described in Chapter 3, are relevant here;
- **the appropriate national authority in England and Wales**<sup>21</sup> **can make regulations on certain matters**, such as equipment standards, exemptions and discounts, which would help to ensure that any schemes were consistent. The existing legislation also provides that the national authority can issue statutory guidance to local authorities; and
- **road pricing can be introduced on sections of the trunk road network only where local authorities request it as part of a local scheme and secure the agreement of the appropriate national authority, or on a bridge or tunnel over 600 metres in length.** The legislation does not provide for generalised motorway or trunk road tolling, and does not contain the powers that would be needed for a national road pricing scheme.

#### (iv) Proposals in the draft Bill

5.14 The draft Bill would not change these aspects of the existing framework. However, informed by discussions with stakeholders, we believe there is a need to reform certain aspects of the existing legislation, to:

- **ensure freedom and flexibility so that local authorities who wish to develop schemes can do so in a way that reflects local needs and priorities, within a clear framework of local accountability.** This is consistent with the principles described in the Local Government White Paper, *Strong and Prosperous Communities*;<sup>22</sup>
- **provide additional powers to ensure that any schemes are consistent and interoperable.** This will help to avoid unnecessary costs and complexity for road users needing to interact with more than one local road pricing scheme; and

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<sup>20</sup> At present, this applies to net revenues arising in the first ten years of any “early relevant scheme”. An Early Relevant Scheme is defined as any scheme that is made within 10 years of the commencement of the relevant section of the 2000 Act (February 2001 in England).

<sup>21</sup> The Secretary of State (in England) and the Welsh Ministers (in Wales).

<sup>22</sup> *Strong and prosperous communities – the Local Government White Paper*, Department for Communities and Local Government, October 2006, [www.communities.gov.uk](http://www.communities.gov.uk).

- **provide appropriate powers relating to the exchange of information** between central government and local charging authorities.

5.15 The draft Bill would not provide the powers that would be needed if, in the future, central government decided to move towards a national road pricing scheme. Separate, future legislation would be needed for that, and there would need to be a full and informed public debate.

5.16 The following sections discuss the proposals in the draft Bill in each of these three areas.

#### **a) Local freedom and flexibility, within a clear framework of accountability**

5.17 While many of aspects of the legislative framework remain fit for purpose, we consider that there is a case for reforming a number of specific aspects of this framework to ensure appropriate local freedom and flexibility, as well as accountability. In particular:

- **at present, pricing schemes can only be set up by a local traffic authority, or two or more such authorities working together.** In the major English conurbations outside London, Passenger Transport Authorities (PTAs) have a crucial role in coordinating the public transport provision which would need to work alongside any local pricing scheme. However, there is no statutory basis for a PTA to participate in the design or implementation of a local pricing scheme within its area, or for scheme revenues to accrue directly to a PTA;
- **the appropriate national authority must approve the relevant ‘scheme order’ before a local road pricing scheme can commence.** In relation to schemes in England, consistent with the principle of greater flexibility for local areas, we believe that appropriate safeguards could instead be provided through local accountability mechanisms, backed up by powers for the appropriate national authority to issue guidance and, in some circumstances, to make regulations. Removing Ministers from the decision-making process would make clear that local areas are themselves responsible for decisions on local schemes. It would also allow central government to support the development of local schemes, without running the risk of prejudging a quasi-judicial decision that, under current legislation, must be made by the Secretary of State. Similarly, we propose to remove the power for the Secretary of State to instigate an inquiry into a local charging scheme, leaving it for the local authority to make that decision in light of local circumstances;



- as noted in paragraph 5.13, **the Transport Act 2000 specifies a list of variables according to which prices may be varied within a local scheme**. Although this is a non-exhaustive list, it sends a signal to local authorities as to the factors which the government considers may (or may not) be important. The draft Bill provides an opportunity to review this list to reflect new or evolving priorities; and
- the Transport Act 2000 includes provision governing the **use of revenues** from “early relevant schemes” in their “initial period” (see also paragraph 5.13), but not under other circumstances.

5.18 In view of these considerations, the draft Bill includes provisions to:

- **allow road pricing schemes in England to be made jointly by local traffic authorities and a PTA** (clauses 64–70), **but not by a PTA independently**;
- **remove the current role for the Secretary of State in approving local schemes in England** (clause 72), and put in place alternative measures to ensure an appropriate framework of accountability. These measures are outlined further in Box 5.1 below;
- **remove the current role for the Secretary of State in approving a local authority’s plans for the application of the revenues** from a local scheme (clause 82 and Schedule 5);
- **require local authorities to apply their share of the net proceeds of any scheme to support the achievement of its local transport policies** (clause 81 and Schedule 5) – not just during the “initial period” of “early relevant schemes”;
- **create a new statutory requirement for local authorities in England and Wales to have regard to potential environmental impacts** when considering introducing a scheme (clause 71);
- **remove the specific powers in the Transport Act 2000 for the Secretary of State to require a local authority to consult or hold a public inquiry** in relation to a local scheme in England, while retaining the power for a local authority to hold such an inquiry if it so wishes (clause 73);
- **specify explicitly that local authorities in England and Wales may choose to vary prices according to the means by which a motorist chooses to declare and/or pay their charges** (clause 74). This could, for example, allow different rates to be applied where a road user chooses for his charge liabilities to be recorded automatically by means of different technologies, or to pay by different means (such as a pre-pay account or direct debit). Any decisions about charge rates and structures would remain a decision for the relevant local authority alone; and

- **replace various references to “local transport plans” in the Transport Act 2000** with references to “local transport policies” (clause 2 and Schedule 1). This removes a bureaucratic obstacle (the statutory timetable for producing local transport plans) from the process of making a local scheme.

### Box 5.1: Accountability for local road pricing schemes

As set out in paragraph 5.17, we consider that the current role for the Secretary of State in approving local scheme proposals in England is no longer appropriate, given the wider context set out in the Local Government White Paper. In the absence of that approval process, there would be a need for an alternative framework to ensure transparency and accountability for those affected by schemes.

The local democratic process is clearly an important part of that framework, but is not in itself sufficient – not least because local pricing schemes will affect people who live outside the boundaries of the authorities responsible for making the scheme. For example, schemes in urban areas will also affect commuters and shoppers travelling in from outlying rural areas.

We are therefore proposing an approach based on a combination of statutory guidance and, where appropriate, regulations to ensure that local schemes are implemented with technical specifications which meet the wider public interest. The Department for Transport (DfT) has published guidance for local authorities which they should take into account as they develop schemes for TIF funding.<sup>1</sup> This guidance, which will be kept under review and updated as necessary, covers:

- **scheme design and appraisal.** DfT has already published comprehensive guidance to authorities, setting out methodologies for appraisal of transport schemes including road pricing. It sets out a diverse range of relevant economic, social, environmental and other impacts to be taken into account;
- **consultation.** This emphasises the importance of full local consultation, and of actively involving a wide range of interested parties – including local people and businesses (including those that do not belong to representative bodies), transport users and operators, and organisations representing groups with particular interests (such as disabled people). It also makes clear that a local authority should consult its neighbouring authorities and use its best endeavours to offer those who regularly enter or have business in the proposed pricing scheme area the opportunity to comment on any proposals;
- **the legal framework for local road pricing.** This sets out the current legal basis within which any road pricing scheme would operate, including relevant domestic and EU legislation;

- **the use of revenues and setting of prices.** This sets out how local authorities can use the revenues arising from local schemes, and describes factors that should be taken into account in setting prices (including discounts); and
- **scheme operation.** This describes options for how a scheme might work, what technological systems might be used, and what specific functions a scheme operator might need to procure or provide.

In many cases guidance to local authorities will be the most appropriate approach in order to encourage consistency whilst also allowing flexibility for circumstances in individual local areas. However, in some cases it may be appropriate to make regulations. We believe that powers to make regulations, which would be laid before Parliament, are necessary in the following areas:

- to impose limits on the charges payable;
- to regulate exemptions and discounts;
- to set penalty charges and make other provisions in relation to enforcement;
- to ensure that vehicle classification is consistent between schemes;
- on the form of an order making a local scheme and how it should be published;
- on equipment and traffic signs; and
- on format for data and conditions under which it may be transferred.

Regulation-making powers covering many of these areas already exist in the Transport Act 2000, though the draft Bill includes provisions to broaden those powers where appropriate (see paragraphs 5.19 to 5.23).

The Secretary of State would also be able to require a local authority to provide details of the operation of a scheme and their proposed use of their local road pricing powers (see paragraphs 5.27 to 5.29).

<sup>1</sup> *Business case guidance for road pricing element of the TIF package*, February 2007, [www.dft.gov.uk/pgr/roads/roadpricing/multitiffbuscase](http://www.dft.gov.uk/pgr/roads/roadpricing/multitiffbuscase)

## b) Consistency and interoperability

5.19 As local authorities develop scheme proposals, it will be important to ensure an appropriate degree of consistency between schemes. Otherwise, road users who need to interact with more than one scheme could face unnecessary costs and complexity.

5.20 A degree of interoperability would also be desirable so that, for example, if a road user wished to pay via a particular technology, a single piece of equipment would be compatible with any local scheme. Some motorists (for example vehicle fleet operators) might also wish to have a single account that covered their interactions with all local schemes, rather than having to deal separately with each local scheme operator. At this stage we believe we should keep open the option to allow arrangements of this kind to be established for those road users who want them.

5.21 Existing legislation provides certain powers for the Secretary of State to make regulations about standards for equipment used in local road pricing schemes. These powers, which have not so far been exercised, relate to the “installation and maintenance” of equipment.

5.22 We now consider that these existing powers should be broadened so that an appropriate degree of consistency and interoperability can be achieved. The draft Bill therefore includes powers to extend the existing regulation-making powers to cover also the “use” of equipment, and to ensure that the functioning of any equipment cannot be interfered with (clauses 76 and 77). This would, for example, enable future regulations to:

- **specify standard data formats** so that, where a motorist opts to use a particular technology supplied by one local scheme, that tag is capable of being read by roadside equipment in another scheme;
- **specify unique numbering systems for any equipment**, to avoid duplication of identification numbers between different schemes; and
- **set standards for encryption and security**, to ensure that data cannot be intercepted or misused.

5.23 The draft Bill also includes a power for the appropriate national authority in England and Wales to make regulations requiring charging authorities to accept payment from specific types of road user in a specific manner (clause 75). For example, a road user might wish to be able to register with one scheme, install a particular technology and make a single arrangement for payment, with that arrangement also applying automatically (from the road user’s point of view) to other local schemes.

### **c) Information**

#### *Information provided by government to local authorities*

5.24 There are various circumstances in which information held by central government might be useful to local authorities designing or operating a road pricing scheme. For example, data held by the Driver and Vehicle Licensing Agency (DVLA) on the number of vehicles registered within a particular area may help a local authority to estimate the number of vehicle owners who might register with any local scheme. For these purposes such information would always be anonymised to avoid individuals or vehicles being identifiable through the disclosure of personal data. DVLA will also identify the registered keeper of a vehicle where a charging authority needs to issue a penalty notice.

5.25 If more local authorities want to introduce local pricing schemes, the costs to central government of providing such information would increase. We consider that it would be reasonable to expect local authorities to contribute to the administrative costs of providing such information.

5.26 The draft Bill therefore includes a provision that would allow the Secretary of State to charge a reasonable fee for the supply of such information to authorities operating or proposing to operate a local pricing scheme (clauses 79 and 80). This includes any charging authorities in Wales and Scotland. Any charge would only be for the cost of supplying the information. The draft Bill includes an equivalent provision to enable the Welsh Ministers to charge for supplying information to local authorities in Wales.

#### *Information provided to government by local authorities*

5.27 If the Secretary of State's role in approving local schemes in England is to be replaced with an alternative framework, there is a need to ensure that central government still has appropriate access to information about local authorities' use (or proposed use) of their road pricing powers.

5.28 To some extent, this may be remedied by the accountability framework set out in Box 5.1, but it may be appropriate for the Secretary of State to be able to request information beyond what is made available within that framework. This would also help ensure that information on local schemes is provided to inform the national debate on road pricing.

5.29 The draft Bill therefore includes a power for the appropriate national authority in England and Wales to request information from charging authorities (clause 78) regarding their use, or proposed use, of the powers to make road pricing schemes. This provision would be similar in effect to the existing power under section 19 of the Traffic Management Act 2004, which relates to local authorities' general network duties. The provision covers information which the local authority has in its possession, or can reasonably be expected to acquire.

### (v) Territorial extent of proposals

5.30 All the provisions described so far in this chapter would have effect in **England (outside London)**. Some provisions in the draft Bill also apply in relation to **London**, as explained in Box 5.2 below.

5.31 In relation to **Wales**, functions and regulation-making powers equivalent to those available to the Secretary of State are devolved to the Welsh Ministers. The proposals described in this Chapter would have effect in Wales, except that the Welsh Ministers would retain their existing role in approving local road pricing schemes. The changes to powers relating to inquiries (described in paragraph 5.18) would not therefore apply in Wales. In addition, the clauses relating to PTAs do not affect Wales.

5.32 In common with our approach of empowering local authorities to deliver improved transport in their areas, we will be exploring with the Welsh Assembly Government how the legislative framework for road pricing schemes might be developed in Wales, consistent with the new arrangements under the Government of Wales Act 2006.

5.33 The provisions in the draft Bill relating to local road pricing schemes would not affect Scotland, with the exception of clause 80. That clause would provide a power for the Secretary of State to charge a reasonable fee for the provision of information and data by central government to local authorities in the context of local road pricing schemes in Scotland (see paragraph 5.26).

5.34 None of the proposals would have effect in **Northern Ireland**.

### Box 5.2: Application of provisions in London

Road pricing schemes in London are governed by provisions in the Greater London Authority Act 1999. While these are similar in many respects to the powers for other local authorities contained in the Transport Act 2000, there are also important differences. For example, an order making a scheme in London must be confirmed by the Greater London Authority (or by the Mayor acting on its behalf), but there is no requirement for approval by the Secretary of State.

In relation to London, the provisions in the draft Bill would:

- **allow the Secretary of State to insist that equipment used in connection with charging schemes in London should be “used” in a manner compatible with national regulations**, where failure to do so would be detrimental to the interests of persons outside London (clause 77). Paragraph 5.22 explains the rationale for provisions relating to the “use” of equipment;
- **mirror the provisions in England relating to variation of charges** according to method of declaration or payment (clause 74) and **provision of information** (clauses 78 and 79);
- **allow regulations made by the Secretary of State to require charging authorities to allow charges to be paid by certain people in certain ways** (clause 75);
- **create the possibility for a charging scheme to be made jointly by a PTA (together with local authorities in its area) and one or more authorities in London** (clauses 68 and 69). At present this is only a theoretical possibility, but the draft Bill caters for the prospect that local authorities close to London might in future choose to set up a PTA under the provisions described in Chapter 4; and
- **remove the existing requirement for a charging authority in London to set out its plans for the application of the revenues from a charging scheme**, and to have that plan approved by the Secretary of State (clause 81).



### **(vi) Workplace parking levy**

5.35 As well as provisions relating to local road pricing schemes, Part 3 of the Transport Act 2000 also contains provisions relating to workplace parking levy (WPL) schemes.

5.36 We consider that, in most circumstances, local road pricing schemes are likely to be more effective in tackling congestion than a WPL scheme. This is because a WPL scheme can only address one contributor to overall traffic congestion, namely commuters who choose to park at the workplace. There is no experience of operating a local WPL scheme in the UK, although it is being actively considered by one or two local authorities. The Transport Innovation Fund guidance published in February 2007<sup>23</sup> made clear that bids involving a WPL scheme would be considered only by exception.

5.37 Against this background, we do not consider that there is a case for making specific changes to the legal framework for WPL schemes at the present time. However, the changes to the use by local authorities of revenues from schemes (made by amending Schedule 12 to the Transport Act 2000) do apply to revenues from WPL schemes, as well as to those from local road pricing schemes.

#### **Questions for consultation**

**Q13: What are your views on the proposals relating to:**

- (a) local freedom, flexibility and accountability (paragraph 5.18), including the proposals in Box 5.1;**
- (b) consistency and interoperability (paragraph 5.22); and**
- (c) information (paragraphs 5.26 and 5.29)?**

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<sup>23</sup> Transport Innovation Fund: Guidance on Business Case Requirements for Programme Entry, *Department for Transport, February 2007*.



## 6. Traffic commissioners

The regionally-based traffic commissioners play an important role in the regulation of the bus and goods vehicle industries. The proposals in the draft Bill would expand their remit in the bus sector.

The draft Bill would create a new statutory appointment of senior traffic commissioner, with powers to secure greater consistency of standards and processes amongst the traffic commissioners. This should provide greater transparency and certainty for bus and heavy goods vehicle operators who interact with more than one of the traffic commissioners.

A number of interested parties have noted that these new bus-related functions will require a different mix of skills and expertise to the traffic commissioners' existing responsibilities. We are therefore considering whether further modifications to the traffic commissioner system might help to ensure effective delivery of these functions. If appropriate, we would consult separately on any specific proposals.

### ***(i) Introduction***

6.1 This Chapter describes the proposal to create a new statutory appointment of senior traffic commissioner (STC), for which legislative proposals are included in the draft Bill.

### ***(ii) Policy context***

6.2 There are currently eight regionally-based traffic areas in Great Britain, with a traffic commissioner (TC) responsible for each of these areas.<sup>24</sup> The TCs play an important role in the regulation of the goods vehicle and bus sectors. They are appointed by the Secretary of State, but they are office-holders independent of government.

6.3 The TCs:

- are responsible for the licensing of public service vehicle (PSV) and heavy goods vehicle (HGV) operators;
- play a role in the registration and regulation of local bus services, as described in Chapter 3;
- grant permits to operators of not-for-profit community transport services;
- hear appeals against the impounding by VOSA of illegally-operated goods vehicles; and
- determine whether applicants for PSV and HGV licences are fit persons to hold such licences.

6.4 The regionally-based system of independent TCs has a number of advantages. In particular, their independence from government has created confidence that licensing decisions are fair and impartial, and in this respect they are favourably regarded by the industries they regulate. The regional structure may also be helpful in allowing the TCs to draw on their local knowledge as they consider specific cases.

6.5 The structure of the bus and logistics industries has, however, changed substantially since the TC system was established some 75 years ago, with a greater proportion of national operators today needing to deal with more than one of the regional TCs. With this change has come an increasing need to ensure that the TCs operate within a national system, with consistent standards and procedures.

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<sup>24</sup> At present there are seven TCs, with a single person acting as TC for both the Welsh and West Midlands traffic areas.

6.6 In recent years, consistency has been encouraged by the appointment of a STC, whose role includes the promotion of good practice and consistency amongst the TCs. However, there is a limit to what the STC can achieve under the current framework, as the appointment is purely administrative and carries no formal powers. Greater consistency can be achieved only through negotiation and mutual agreement between the TCs, facilitated by the STC.

6.7 A number of operators have voiced concerns about different standards or processes being applied in different traffic areas, which can lead to uncertainty and increased costs. The proposed bus punctuality performance regime, described in Chapter 3, would create additional responsibilities for the TCs. Transparent and consistent application of this performance regime across the TC areas would be particularly important, to both bus operators and local authorities.

### *(iii) Proposals in the draft Bill*

6.8 Against that background, we believe there is a case for placing the existing role of the STC on a statutory footing, with a remit to promote consistency between the individual TCs and appropriate powers to secure greater consistency where this cannot be achieved by cooperation alone.

6.9 The draft Bill therefore includes provisions that would **put the existing STC role on a statutory footing** (clause 1). The provisions would create a new power for the STC to issue guidance and general directions to the TCs, covering any aspect of the conduct of their functions. The TCs would be required to comply with any directions, and to have regard to any guidance. The STC would be required to consult a number of interested parties before issuing any directions or guidance.

6.10 The draft Bill would also **replace the existing power for the Secretary of State to issue directions to TCs, with a new power to issue guidance to the STC**. Such guidance could cover matters of general process and policy, but the Secretary of State could not direct on matters related to specific cases or decisions.

### Box 6.1: Delivering the bus proposals

Paragraph 6.3 described the main existing functions of the traffic commissioners. Although some of these functions relate to buses, the majority of their day-to-day work is focused on the goods vehicle sector.

The proposals set out in the draft Bill would significantly expand the remit of the traffic commissioners in the bus sector. They would be responsible for delivering the strengthened punctuality performance regime, and an Approvals Board (usually chaired by the senior traffic commissioner) would be responsible for the approval of quality contracts schemes in England.

For the traffic commissioners and their support staff, performing these new bus-related functions successfully is likely to require a different mix of skills and expertise from their existing core functions. This point has been highlighted by a number of interested parties before and after the publication of our proposals in *Putting Passengers First*.

We are therefore considering whether the proposed new functions would be best delivered within the existing traffic commissioner structures, as envisaged in *Putting Passengers First*, or whether further modifications could better deliver the outcomes we are seeking. In developing any proposals for change, we would wish to:

- ensure the continued effective delivery of the operator licensing system, and other existing functions undertaken by the traffic commissioners;
- maximise the efficiency and effectiveness of the new bus punctuality performance regime, and other relevant proposals in the draft Bill;
- strengthen national consistency of standards and procedures, so as to increase certainty for bus and goods vehicle operators;
- avoid unnecessary regulatory costs for the bus and goods vehicle sectors; and
- ensure that the regulatory system is sufficiently flexible to adapt in response to change, for example in the structure of the industries they serve.

We are continuing to explore whether there are alternative options that could more effectively meet these criteria, and – if necessary – we would intend to publish a separate consultation paper later in the year.

***(iv) Territorial extent***

6.11 The provisions relating to the STC would apply throughout Great Britain.

6.12 A number of the functions of the TC for Scotland relate to matters that are devolved in Scotland, including the registration and regulation of local bus services. Where the STC issued directions or guidance that related to matters that are devolved in Scotland, they would not apply to the TC for Scotland (see clause 1(8)).

6.13 All directions and guidance issued by the STC would apply to the TCs in England and Wales.

**Question for consultation**

**Q14: To what extent is there a problem of ‘inconsistency’ between the approaches of the different traffic commissioners, and what costs does this impose on PSV and goods vehicle operators?**

**Q15: Do you agree that the proposals outlined here would help to reduce those costs?**







## 7. Next steps: consultation and scrutiny

**This consultation document invites views on the proposals contained in the draft Local Transport Bill, to be submitted by 7 September 2007. Full details of how to respond are contained in this Chapter. We will be holding a number of consultation events, and the proposals will be discussed at various established fora.**

**In parallel with the public consultation, the draft Bill is being made available for Parliamentary pre-legislative scrutiny by the House of Commons Transport Committee.**

7.1 The publication of this draft Bill is intended to enable a full and frank debate with the transport industry, local authorities and other interested parties on the overall package of reforms and on the detail of the specific proposals.

7.2 Final decisions have not yet been made – we have sought to indicate where we are clear on the direction of travel and where thinking is at an earlier stage. It is important to get this complex legislation right and ensure that the final package of reforms makes sense at the working level.

7.3 We are consulting on our partial Regulatory Impact Assessments (RIAs) alongside the draft Bill. These provide a high-level assessment of the potential impacts of the proposed legislative changes, in line with our commitment to incorporate impact assessment throughout the policy development process. Any individual regulatory measures introduced as part of the policy framework would, themselves, be subject to further consultation and RIAs as appropriate.

#### ***(i) Parliamentary scrutiny***

7.4 The draft Bill is being made available to the House of Commons Transport Committee<sup>25</sup> for Parliamentary pre-legislative scrutiny, in parallel with the public consultation. Further information on the general pre-legislative scrutiny process is contained in a note by the House of Commons Library.<sup>26</sup>

#### ***(ii) Public consultation***

7.5 We would welcome views from all who have stake in these proposals – practitioners who may be involved in their delivery, users of transport services or all others who may be affected. The consultation will close on 7 September 2007.

7.6 The questions set out in this document are summarised at Annex B. They are intended to help respondents to structure their responses, but views are invited on all aspects of the proposals, the draft Bill and the accompanying RIAs. Respondents should address only those issues or questions that are relevant to them; there is no need to reply to every question.

#### **a) Targeted consultation events**

7.7 To complement the formal public consultation, the Department is planning to hold a number of consultation events with key stakeholders around the country during late spring and early summer. Further details will be published on the Department for Transport website.

7.8 The Department will also continue to work with practitioners through established fora, including the Bus Partnership Forum and the Road Pricing Local Liaison Group, to test delivery and implementation issues.

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<sup>25</sup> More information can be found at [www.parliament.uk/transcom](http://www.parliament.uk/transcom).

<sup>26</sup> Pre-legislative scrutiny, Standard Note SN/PC/2822, 28 November 2005, [www.parliament.uk](http://www.parliament.uk).

7.9 The above will allow for a thorough consultation and testing of the draft provisions before we take final decisions, in light of consultation and scrutiny responses, before deciding how to proceed.

#### **b) How and when to respond**

7.10 Please send your response **to arrive by 7 September 2007** to:

**Local Transport Bill Consultation  
Department for Transport  
Great Minster House (Zone 3/16)  
76 Marsham Street  
London  
SW1P 4DR**

or by e-mail to **LocalTransportBill@dft.gsi.gov.uk**

#### **c) Disclosure of responses**

7.11 In due course, the Department may wish, or be asked, to copy or disclose responses to others. Please make it clear if you would object to us copying or disclosing all or part of your response. We will make your response publicly available unless you ask us not to. Even if you do ask us not to do so, you should be aware that, under the provisions of the Freedom of Information Act, your response may, after due consideration of the balance between the public interest and the interests of confidentiality, be held to be disclosable if requested.

7.12 All responses will be included in any summary of results, although individuals will not be identified. Names and addresses may be held in an electronic database of interested parties for the purpose of distributing future documents on similar issues. However, any such details on a database will not be given to a third party.

7.13 If you wish to view individual responses after the consultation period has ended, these will be available for public viewing for a period of six months at the DfT Library and Information Centre, Ashdown House, 123 Victoria Street, London SW1E 6DE. The Library is open Monday to Friday during office hours. Anyone wishing to inspect the responses is requested to telephone the Librarian on 020 7944 3039 to make an appointment (without which it will not be possible to gain admittance).



## Annex A – Code of Practice on Consultation

The Government has adopted a code of practice on consultations. The code of practice applies to all UK public consultations by government departments and agencies, including consultations on EU directives.

The code contains six criteria, which should be reproduced in all consultation documents. They are:

1. Consult widely throughout the process, allowing a minimum of 12 weeks for written consultation at least once during the development of the policy.
2. Be clear about what your proposals are, who may be affected, what questions are being asked, and the timescale for responses.
3. Ensure that your consultation is clear, concise and widely accessible.
4. Give feedback regarding the responses received and how the consultation process influenced the policy.
5. Monitor your department's effectiveness at consultation, including through the use of a designated consultation co-ordinator.
6. Ensure your consultation follows better regulation best practice, including carrying out a Regulatory Impact Assessment if appropriate.

A full version of the code can be found at:

[www.cabinet-office.gov.uk/regulation/consultation/code.asp](http://www.cabinet-office.gov.uk/regulation/consultation/code.asp)

If you consider that this consultation does not comply with the criteria or have comments about the consultation process please contact:

Andrew D. Price  
Consultation Co-ordinator  
Better Regulation Unit  
Department for Transport  
Zone 9/09 Southside  
105 Victoria Street  
London  
SW1E 6DT



## Annex B – Summary of consultation questions

### Chapter 3

**Q1:** What are your views on the proposals relating to:

- (a) voluntary partnership agreements;
- (b) quality partnership schemes;
- (c) quality contracts schemes;
- (d) bus punctuality;
- (e) community transport; and
- (f) other measures?

**Q2:** What are your views on the specific questions relating to competition legislation (Box 3.4)?

**Q3:** Do the proposed “public interest” criteria for quality contracts schemes cover the right issues (Box 3.5)? Do they strike the right balance between making schemes a realistic option and protecting the legitimate interests of bus operators?

**Q4:** How can the proposed new bus punctuality regime (paragraphs 3.32 to 3.39) best be designed to achieve the desired benefits at minimum cost, particularly for smaller operators?

**Q5:** Do the proposals to amend the existing powers relating to subsidy contracts provide sufficient flexibility to meet local authorities’ needs (paragraph 3.47)?

### Chapter 4

**Q6:** Do you agree that governance arrangements in the metropolitan areas outside London require reform?

**Q7:** Do you agree that there is a need for flexible arrangements which allow for variation in the governance developed for different areas?

**Q8:** Do you agree that the cities themselves should be asked to publish proposals on revised governance? Do you have views on which body or bodies should be asked to prepare those proposals?

**Q9:** Do you agree that the Bill should enable broad changes, or should there be limitations on what change might be allowed?

**Q10:** Do you think that the power to review and amend governance arrangements should allow development over time, or should the powers lapse after an initial review?



**Q11:** Do you agree with the changes we are proposing to the powers and duties of PTAs in all the metropolitan counties?

**Q12:** Do you agree with the proposed changes to Local Transport Plans described in paragraphs 4.43 to 4.45? Should these changes be applied only to the metropolitan counties, or should they be applied elsewhere, for example to other city regions?

## **Chapter 5**

**Q13:** What are your views on the proposals relating to:

- (a) local freedom, flexibility and accountability (paragraph 5.18), including the proposals in Box 5.1;
- (b) consistency and interoperability (paragraph 5.22); and
- (c) information (paragraphs 5.26 and 5.29)?

## **Chapter 6**

**Q14:** To what extent is there a problem of ‘inconsistency’ between the approaches of the different traffic commissioners, and what costs does this impose on PSV and goods vehicle operators?

**Q15:** Do you agree that the proposals outlined here would help to reduce those costs?

## Photo acknowledgements

Photos courtesy of:

Chapter 1: routeONE

Chapter 2: Merseytravel

Chapter 3: Fastrack and Peter Martin photography

Chapter 6: Driving Standards Agency

Printed in the UK by The Stationery Office Limited  
on behalf of the Controller of Her Majesty's Stationery Office  
ID 5526327 05/07 368377 19585



# Department for Transport

## Strengthening local delivery: The draft Local Transport Bill

### Volume 2: The draft Bill

Presented to Parliament by the  
Secretary of State for Transport,  
by Command of Her Majesty  
May 2007

Cm 7043-II

£40.00  
Four volumes  
Not to be sold separately

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# Draft Local Transport Bill

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A  
**B I L L**

TO

Make further provision in relation to local transport authorities, the provision and regulation of road transport services and the subsidising of passenger transport services; to amend sections 75 and 79 of the Transport Act 1985; to make further provision in relation to Passenger Transport Authorities; to amend the law relating to charging schemes under the Transport Act 2000 and the Greater London Authority Act 1999; and for connected purposes.

**B**E IT ENACTED by the Queen’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

**PART 1**

PRELIMINARY

*Senior traffic commissioner*

**1 Senior traffic commissioner**

(1) After section 4 of the PPVA 1981 (traffic commissioners) insert—

**“4A Senior traffic commissioner**

- (1) One of the traffic commissioners shall be appointed by the Secretary of State to be the senior traffic commissioner.
- (2) The senior traffic commissioner—
  - (a) shall hold office for such period as the Secretary of State specifies when making the appointment; but
  - (b) ceases to hold that office on ceasing to hold office as a traffic commissioner.

A traffic commissioner who has been the senior traffic commissioner is eligible for re-appointment as the senior traffic commissioner.

- 
- (3) In the case of illness, incapacity or absence of the senior traffic commissioner, the Secretary of State may appoint another traffic commissioner to act as deputy for the senior traffic commissioner.
- (4) The senior traffic commissioner may give to the traffic commissioners –
- (a) guidance, or
  - (b) general directions,
- as to the exercise of their functions under any enactment.  
This subsection is subject, in relation to Scotland, to subsection (8).
- (5) The guidance that may be given under subsection (4)(a) includes guidance as to –
- (a) the meaning and operation of any enactment or instrument relevant to the functions of traffic commissioners;
  - (b) the circumstances in which, and manner in which, a traffic commissioner should exercise any power to impose any sanction or penalty;
  - (c) matters which a traffic commissioner should or should not take into account when exercising any particular function.
- (6) The directions that may be given under subsection (4)(b) include directions as to –
- (a) the circumstances in which, and the manner in which, officers or servants of a traffic commissioner may exercise any function for or on behalf of the traffic commissioner, and any conditions which such officers or servants must meet before they may do so;
  - (b) the information which a traffic commissioner must ask to be supplied in connection with the exercise of any particular function, and the steps which must be taken to verify the accuracy of any information so supplied;
  - (c) the procedure to be adopted in conducting inquiries under section 54 of this Act, section 35 of the Goods Vehicles (Licensing of Operators) Act 1995 or any other enactment;
  - (d) the manner in which a traffic commissioner must or may publish his decisions;
  - (e) circumstances in which a traffic commissioner must consult some, or all, of the other traffic commissioners before exercising any particular function.
- (7) The senior traffic commissioner must consult each of the following persons before giving any guidance or directions under subsection (4) –
- (a) the Secretary of State;
  - (b) the Welsh Ministers;
  - (c) the other traffic commissioners;
  - (d) such organisations representative of passenger transport operators, and of road haulage operators, as the senior traffic commissioner thinks fit;
- and such other persons as the senior traffic commissioner thinks fit.
- (8) The only guidance or directions under this section which the senior traffic commissioner may give to the traffic commissioner for any traffic

area in Scotland are guidance or directions as to the exercise of functions that relate to reserved matters (within the meaning of the Scotland Act 1998).

- (9) The Secretary of State may give to the senior traffic commissioner guidance as to the exercise of his functions under this section.
  - (10) The senior traffic commissioner must have regard to any guidance given under subsection (9).”.
- (2) In each of the following provisions (which provide for traffic commissioners to act under general directions of the Secretary of State) –
- (a) section 4(4)(a) of the PPVA 1981,
  - (b) section 1(2) of the Goods Vehicles (Licensing of Operators) Act 1995 (c. 23),
- for “the general directions of the Secretary of State” substitute “the general directions of, and shall have regard to any guidance given by, the senior traffic commissioner”.
- (3) In Schedule 2 to the PPVA 1981 (traffic commissioners) in paragraph 8, at the beginning insert “(1)” and at the end insert –
- “(2) There shall be paid to the senior traffic commissioner such additional remuneration in respect of the responsibilities of that office as may be so determined.”.
- (4) The person who, on the date on which this section comes into force, is the person designated by the Secretary of State as senior traffic commissioner –
- (a) is to become, on that date, the first holder of the office of senior traffic commissioner, and
  - (b) shall remain in that office until the expiry of the term for which that person was so designated (but subject to section 4A(2)(b) of, and Schedule 2 to, the PPVA 1981).

### *Local transport policies*

## **2 Local transport policies**

- (1) The TA 2000 is amended as follows.
- (2) In section 108 (local transport plans) after subsection (4) insert –
  - “(5) In this Part “local transport policies” means policies developed under subsection (1)(a).”.
- (3) In section 162(1) (interpretation of Part 2) insert the following definition at the appropriate place –
  - ““local transport policies” has the meaning given in section 108(5).”.
- (4) In section 198(1) (interpretation of Part 3) insert the following definition at the appropriate place –
  - ““local transport policies” has the meaning given in section 108(5).”.

- (5) Schedule 1 (which substitutes references to local transport policies for certain references to local transport plans or bus strategies and makes other related amendments) has effect.

## PART 2

### BUS SERVICES

#### *Quality partnership schemes*

### 3 Quality partnership schemes

- (1) Section 114 of the TA 2000 (quality partnership schemes) is amended as follows.
- (2) In subsection (1), for the words from “will to any extent” to the end (which make it a condition that a scheme implement the policies in the authority’s bus strategy) substitute “will contribute to the implementation of their local transport policies”.
- (3) For subsection (3)(a) (authority must be satisfied that scheme will improve quality of local services) substitute –
- “(a) bring benefits to persons using local services in the whole or any part of their area, or combined area, by improving the quality of those services, or”.
- (4) For subsection (6) substitute –
- “(6) The standard of services which may be specified in a scheme includes –
- (a) requirements which the vehicles being used to provide the services must meet, and
- (b) requirements as to frequency or timing of the services,
- but the specification of any such requirements is not to prevent operators from providing services in excess of those requirements.”.
- (5) After subsection (6) insert –
- “(6A) The standard of services which may be specified in a scheme may also include requirements as to the maximum fares that may be charged for particular journeys, or for journeys of particular descriptions, on services to which the scheme applies.
- (6B) If a scheme includes any such requirements as to maximum fares, it must also make provision –
- (a) as respects the setting of such fares,
- (b) for a minimum interval before any such fare may next be reviewed,
- (c) for a maximum interval before any such fare must next be reviewed,
- (d) as respects revision of any such fare after a review.
- (6C) The provision included in a scheme by virtue of paragraph (a) or (d) of subsection (6B) must include provision as respects the agreement of the operator to the setting or revision of a maximum fare.

- (6D) Subsection (6B) has effect subject to, and in accordance with, the following provisions –
  - (a) the revision of a maximum fare in accordance with provision made under that subsection is not to be regarded as a variation of the scheme for the purposes of section 120 (variation or revocation of scheme), but
  - (b) nothing in that subsection or in paragraph (a) of this subsection shall be taken to derogate from what may be done under or by virtue of that section.”.
- (6) After subsection (6D) insert –
  - (6E) The power to make a quality partnership scheme includes power to provide for different facilities, or different standards of services, to be provided under the scheme as from different dates after the scheme comes into operation.”.

#### **4 Making a scheme: different dates for different facilities or standards etc**

- (1) Section 116 of the TA 2000 (making of scheme) is amended as follows.
- (2) In subsection (2) (contents of scheme) after “The scheme must specify” insert “each of the following”.
- (3) After paragraph (d) of that subsection (duration of scheme) insert –
  - “(e) if any facilities or standards of services are to be provided under the scheme as from a date after the scheme comes into operation, the date as from which they are to be so provided.”.
- (4) For subsections (4) and (5) (earliest date on which scheme may come into operation) substitute –
  - “(4) The date as from which any particular facilities, or any services of a particular standard, are to be provided must not be earlier than –
    - (a) in the case of facilities, the latest of dates A to C (see subsections (4B) to (4D)),
    - (b) in the case of services, the later of dates A and D (see subsections (4B) and (4E)),unless the case falls within subsection (4A).
  - (4A) If under the scheme –
    - (a) particular facilities are to be provided by the authority or authorities, and
    - (b) as from the date by which the facilities are to be provided, services of a particular standard are to be provided by operators of local services when using the facilities,the date as from which the facilities and the services are to be provided must not be earlier than the latest of dates A to D.
  - (4B) Date A is the date 3 months after the date on which the scheme is made.
  - (4C) Date B is the date by which, in the opinion of the authority or authorities, it will be reasonably practicable for the authority or authorities to provide the facilities.
  - (4D) Date C is the date 3 months after –



- (a) the date on which any traffic regulation order required for the provision of any of the facilities is made, or
  - (b) if more than one such order is required for their provision, the date on which the last of them is made.
- (4E) Date D is the date by which, in the opinion of the authority or authorities, it will be reasonably practicable for operators of local services to provide services of that standard.”.

## **5 Postponement of provision of particular facilities or standards of service**

- (1) In section 117 of the TA 2000 (postponement, for up to 12 months, of date on which scheme comes into operation) for subsection (1) substitute –
- “(1) If it appears to the authority or authorities appropriate to do so, they may decide that any of the dates specified in subsection (1A) shall be postponed by such period as they think fit.  
A date may not be postponed under this subsection by a period or periods which in total exceed 12 months.
- (1A) The dates are –
- (a) the date on which the scheme is to come into operation,
  - (b) the date as from which any particular facilities are to be provided under the scheme,
  - (c) the date as from which any particular services are to be provided to a particular standard under the scheme.”.
- (2) In consequence of the amendment made by subsection (1), the heading to the section becomes “Postponement of scheme or of provision of particular facilities or standards of service”.

## **6 Effect of scheme: different dates for different facilities or standards etc**

- (1) Section 118 of the TA 2000 (effect of scheme) is amended as follows.
- (2) For subsection (1) (facilities to be provided from date on which scheme comes into operation) substitute –
- “(1) The authority or authorities must –
- (a) provide each of the specified facilities not later than the date specified for its provision under the scheme, and
  - (b) continue to provide it throughout the remainder of the period for which the scheme is in operation.”.
- (3) In subsection (4)(a) (operator of local services to give written undertaking to traffic commissioner) for the words from “that he will” to “when using the facilities” substitute “that, when using the facilities on any date, he will provide the service to the standard specified in the scheme as it has effect in relation to that date”.



*Quality contracts schemes*

**7 Quality contracts schemes**

- (1) Section 124 of the TA 2000 (bus services: quality contracts schemes) is amended as follows.
- (2) In subsection (1) (power of local transport authorities etc to make quality contracts schemes if satisfied it is the only way to implement policies in their bus strategies and it is economic etc) for paragraphs (a) and (b) substitute—
  - “(a) the proposed scheme will result in an increase in the use of bus services (see subsection (9B)) in the area to which the proposed scheme relates,
  - (b) the proposed scheme will bring benefits to persons using local services in the area to which the proposed scheme relates, by improving the quality of those services,
  - (c) the proposed scheme will contribute to the implementation of the local transport policies of the authority or authorities,
  - (d) the proposed scheme will contribute to the implementation of those policies in a way which is economic, efficient and effective, and
  - (e) the competition test is met (see subsections (9C) and (9D)).”.
- (3) In subsection (1A) (power of PTAs to make quality contracts schemes in certain circumstances) in paragraph (c) for “local transport plan” substitute “local transport policies”.
- (4) In subsection (2)(b) (need for approval of appropriate national authority) for “appropriate national authority” substitute “appropriate approval authority (see section 126(1A))”.
- (5) After subsection (9) insert—

“(9A) The power to make a scheme jointly may be exercised only if—

  - (a) all the authorities are local transport authorities for areas in England, or
  - (b) all the authorities are local transport authorities for areas in Wales.”.
  - (6) After subsection (9A) insert—

“(9B) The reference in subsection (1)(a) to increasing the use of bus services includes a reference to reducing, arresting or reversing decline in the use of bus services.”.
  - (7) After subsection (9B) insert—

“(9C) For the purposes of subsection (1)(e) the competition test is met unless—

    - (a) the scheme is likely to have a significant adverse effect on competition, and
    - (b) the making of the scheme is not justified by subsection (9D).

(9D) The making of the scheme is justified if the effect of the scheme on competition is likely to be proportionate to the achievement of the objectives set out in paragraphs (a) to (d) of subsection (1).”.

- (8) Omit subsection (10) (interpretation of references to local transport plan).

## 8 Notice and consultation requirements

- (1) Section 125 of the TA 2000 (notice and consultation requirements) is amended as follows.
- (2) In subsection (1) for the words from “give notice” to the end (which require the authority to give notice of the proposed scheme in a local newspaper) substitute—
- “(a) publish, in such manner as they think fit, a consultation document complying with subsection (1A),
  - (b) supply a copy of that document to each of the persons mentioned in subsection (3), and
  - (c) give notice in accordance with subsection (2) of the proposed scheme in at least one newspaper circulating in the area to which it relates.”.
- (3) After subsection (1) insert—
- “(1A) The consultation document mentioned in subsection (1)(a) must include—
- (a) a description of the proposed scheme;
  - (b) a statement of the reasons why the authority or authorities are satisfied that the conditions in subsection (1) of section 124 are met;
  - (c) a description of any arrangements which the authority or authorities intend to make (including arrangements with other authorities or other persons) for or in connection with the implementation of the scheme;
  - (d) a statement of how any costs which the authority or authorities expect to incur under the scheme are to be defrayed;
  - (e) a declaration by the chief finance officer or officers of the authority or authorities that, after taking into account—
    - (i) any estimated income from fares, and
    - (ii) any grants from Ministers of the Crown or government departments,
 any remaining funding required to implement the scheme can be provided from other resources available to the authority or authorities.
- (1B) The description of the proposed scheme contained in the consultation document in accordance with subsection (1A)(a) must include—
- (a) an outline of the local services which are proposed to be provided under it,
  - (b) a statement of any proposed exclusions from the scheme by virtue of section 127(4).”.
- (4) In subsection (2) (contents of notice)—
- (a) at the end of paragraph (a) insert “and”;
  - (b) in paragraph (b) after “a copy of the scheme” insert “and the consultation document”;
  - (c) omit paragraph (c) and the word “and” preceding it.

- (5) After subsection (5) insert –

“(6) In subsection (1A)(e) “chief finance officer”, in relation to a local transport authority, means that officer of the authority who is responsible under section 151 of the Local Government Act 1972 or section 73 of the Local Government Act 1985 for making arrangements for the proper administration of the financial affairs of the authority.”.

## 9 Approval of proposed scheme

- (1) Section 126 of the TA 2000 (approval of proposed scheme) is amended as follows.
- (2) For “appropriate national authority”, wherever occurring, substitute “appropriate approval authority”.
- (3) After subsection (1) insert –
- “(1A) In this Part “appropriate approval authority”, in relation to a quality contracts scheme, means –
- (a) where the area to which the scheme relates is in England, an approvals board for England (see section 126A),
  - (b) where the area to which the scheme relates is in Wales, the Welsh Ministers.”.

(4) In subsection (4)(a) for “paragraphs (a) and (b)” substitute “paragraphs (a) to (e)”.

(5) Accordingly, in section 162(1) of the TA 2000 (general definitions for the purposes of Part 2), insert the following definition at the appropriate place –

““appropriate approval authority”, in relation to a quality contracts scheme, has the meaning given by section 126(1A),”.

## 10 Approvals boards for England

- (1) After section 126 of the TA 2000 (approval of proposed scheme) insert –
- “126A Approvals boards for England**
- (1) For the purposes of this Part, an approvals board for England shall have 3 members.
- (2) The members shall be –
- (a) one traffic commissioner (“the Commissioner”),
  - (b) two persons drawn from a panel of persons appointed by the Secretary of State for the purposes of this section.
- (3) The Commissioner is to chair the board.
- (4) The person who is the senior traffic commissioner is to be the Commissioner (but see subsections (5) and (6)).
- (5) In the case of any particular board, the senior traffic commissioner may, with the approval of the Secretary of State, appoint another traffic commissioner to be the Commissioner –
- (a) because of the senior traffic commissioner’s illness, incapacity, absence or impending vacation of office, or

- (b) because the senior traffic commissioner is prevented from being the Commissioner by subsection (6).
- (6) A traffic commissioner for an area must not act as the Commissioner in relation to a scheme which relates to that area, or any part of that area, if the traffic commissioner considers that the ability to act impartially as chair of the board in relation to that scheme is to any extent impaired by the holding of that office.
- (7) If the senior traffic commissioner is unable to exercise the power under subsection (5) to appoint another traffic commissioner, that power is to be exercised by the Secretary of State.
- (8) The Secretary of State may issue guidance concerning the carrying out by a board of its functions under this Part in relation to quality contracts schemes.
- (9) The board must have regard to any such guidance.
- (10) The Secretary of State shall pay to each person appointed under subsection (2)(b) such remuneration in respect of the person's services as may be determined by the Secretary of State with the consent of the Treasury.”.
- (2) In Schedule 1 to the Tribunals and Inquiries Act 1992 (c. 53) (tribunals under general supervision of Council on Tribunals) in paragraph 42, at the beginning insert “(a)” and at the end insert –
- “(b) an approvals board for England constituted under section 126A of the Transport Act 2000.”.

## 11 Inquiries by approvals boards for England

After section 126A of the TA 2000 insert –

### “126B Inquiries by approvals boards for England

- (1) This section applies where an authority or authorities apply under section 126 for the approval of a proposed quality contracts scheme by an approvals board for England.
- (2) The board may hold such inquiries as it thinks fit in connection with the exercise of its functions under section 126.
- (3) If, as respects the proposed exercise on any occasion of its powers under section 126, the board receives a request for an inquiry from two or more persons, it may hold a single inquiry in response to those requests.
- (4) Any inquiry held by the board for the purposes of section 126 must be held in public.  
This subsection is subject to any provision made by regulations.
- (5) If the board proposes to hold an inquiry for the purpose of considering whether to approve a scheme, it shall publish notice of the inquiry in the prescribed manner.
- (6) If the board holds an inquiry, it may, in such circumstances as may be prescribed, make such order as it thinks fit as to the payment –
- (a) to the Secretary of State,

(b) by such party to the inquiry as the board thinks fit, of costs incurred by the board or the Secretary of State in connection with the holding of the inquiry.

This subsection is subject to any provision made by regulations under subsection (7).

- (7) Regulations may make provision, in relation to orders under subsection (6), as to—
- (a) the method of calculating the amount of any costs incurred as mentioned in that subsection, and
  - (b) the maximum amount which may be ordered to be paid under such an order.
- (8) Information with respect to any particular trade or business which is given at any such inquiry while admission to the inquiry is restricted in accordance with regulations shall not be disclosed, so long as that trade or business continues to be carried on, except—
- (a) with the consent of the person for the time being carrying it on,
  - (b) for the purpose of the discharge by any person of functions under sections 124 to 134A of this Act, or
  - (c) with a view to the institution of, or otherwise for the purposes of, any legal proceedings pursuant to or arising out of sections 124 to 134A of this Act (including proceedings before the Transport Tribunal).
- (9) Any person who discloses any information in contravention of subsection (8) is guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (10) In this section—
- “prescribed” means prescribed in regulations;
  - “regulations” means regulations made by the Secretary of State.”.

## **12 Appeals relating to applications for approval: areas in England**

After section 126B of the TA 2000 insert—

### **“126C Appeals relating to applications for approval: areas in England**

- (1) This section applies where the area to which the proposed scheme relates is in England.
- (2) Any person falling within subsection (3) may appeal to the Transport Tribunal against the decision of the approvals board for England on the application for approval of the scheme under section 126.
- (3) The persons are—
- (a) the authority, or any of the authorities, who propose to make the scheme,
  - (b) any person who was consulted by the authority or authorities in accordance with section 125(3).
- (4) The authority or authorities must not issue invitations to tender in accordance with section 130(1) until the time for making an appeal under this section has expired without an appeal having been lodged.

- (5) If an appeal under this section is lodged, the authority or authorities must not issue invitations to tender in accordance with section 130(1) before the date on which the appeal is finally disposed of.
- (6) For the purposes of subsection (5) an appeal is “finally disposed of” on the latest of the following dates—
  - (a) the date on which the appeal is finally determined,
  - (b) the date on which the time for any further appeal expires without any such appeal having been made,
  - (c) the date on which the appeal is abandoned or withdrawn,
 and in the paragraphs of this subsection “appeal” includes a reference to any further appeal or appeals.

#### **126D Powers of the Transport Tribunal on an appeal under section 126C**

- (1) On an appeal under section 126C the Transport Tribunal shall have power—
  - (a) to make such order as they think fit, or
  - (b) to remit any matter to the authority or authorities, or to the approvals board for England, (with or without directions) for their consideration or determination or for such other purposes as the Tribunal may direct.
- (2) The powers of the Tribunal on an appeal under section 126C include power to do any one or more of the following—
  - (a) dismiss the appeal in whole or in part,
  - (b) quash the whole or any part of the decision of the approvals board for England,
  - (c) approve the scheme with such modifications (or further modifications) as the Tribunal may specify,
  - (d) remit the matter to the authority or authorities with one or more directions under subsection (3),
  - (e) remit the matter to the approvals board for England with one or more directions under subsection (4).
- (3) A direction under this subsection is a direction for the authority or authorities to do each of the following—
  - (a) consider or reconsider such matters as may be specified in the direction,
  - (b) consult or further consult as respects those matters in accordance with section 125,
  - (c) make such modifications of the scheme as may in consequence appear appropriate to the authority or authorities.
- (4) A direction under this subsection is a direction for the approvals board for England to propose such modifications or further modifications of the scheme as the Tribunal may specify in the direction (so that subsections (5) and (6) of section 126 apply).
- (5) Where, on an appeal under section 126C, the Tribunal exercises any powers falling within paragraph (d) or (e) of subsection (2), the only matters that may be raised on a further appeal under that section relating to the approval of the scheme are matters consequential on, or connected with, the exercise of those powers by the Tribunal.”



### 13 Making of scheme

- (1) Section 127 of the TA 2000 (making of scheme) is amended as follows.
- (2) In subsection (1) (making of scheme to be not later than 6 months after approval by appropriate national authority) for “appropriate national authority” substitute “appropriate approval authority”.
- (3) At the end of subsection (1) insert the following sentence –

“In a case where the area to which the scheme relates is in England, this subsection is subject to subsection (1A).”.
- (4) After subsection (1) insert –

“(1A) Where –

  - (a) the area to which the scheme relates is in England, and
  - (b) there is an appeal under section 126C against the decision of the approvals board for England,

the authority or authorities who proposed the scheme may make it, in accordance with the final outcome of the appeal, at any time not later than 6 months after the date on which the appeal is finally disposed of.

(1B) For the purposes of subsection (1A) an appeal is “finally disposed of” on the latest of the following dates –

  - (a) the date on which the appeal is finally determined,
  - (b) the date on which the time for any further appeal expires without any such appeal having been made,
  - (c) the date on which the appeal is abandoned or withdrawn,

and in the paragraphs of this subsection “appeal” includes a reference to any further appeal or appeals.”.
- (5) In subsection (2) (what the scheme must specify) for paragraph (b) (date on which scheme comes into operation etc) substitute –

“(b) the date on which it is to come into operation or, if the scheme provides for different provisions to come into operation on different dates, or on different dates for different purposes, those dates in the case of each provision, and”.
- (6) In subsection (2), in paragraph (c) (maximum period for which scheme to remain in operation) after “ten years” insert “from the earliest date on which the scheme or any of its provisions comes into operation.”.
- (7) After subsection (2) insert –

“(2A) No date that is to be specified under subsection (2)(b) above may be earlier than 6 months after the scheme is made.”.
- (8) After subsection (3) insert –

“(3A) The scheme must specify the date or dates on which the authority or authorities propose to issue invitations to tender for the provision of any services to which the scheme relates (see section 130).”.
- (9) In subsection (9) (contents of notice under subsection (8)) for paragraph (c) (date on which scheme comes into operation) substitute –

“(c) the date or dates on which the scheme, or the different provisions of the scheme, are to come into operation.”.

- (10) For subsection (10) (power by order to vary the period mentioned in subsection (2)(b)) substitute –

“(10) The appropriate national authority may by order vary any of the periods mentioned in subsection (1), (1A) or (2A).”.

#### **14 Postponement of scheme in part**

In section 128 of the TA 2000 (postponement of scheme) in subsection (1) –

- (a) after “the scheme”, in the second place where those words occur, insert “, or any particular provision of the scheme,”;
- (b) after “would otherwise come into operation” insert “, or come into operation for any particular purpose or purposes,”.

#### **15 Effect of scheme: different provisions taking effect on different dates**

- (1) Section 129 of the TA 2000 (effect of scheme) is amended as follows.
- (2) In subsection (1) (consequences for period during which scheme is in operation) –
  - (a) after “the scheme” insert “, or (in the case of a scheme which provides for different provisions to come into operation on different dates) any provision of the scheme,”;
  - (b) in paragraph (a), for “the area to which it relates” substitute “the area to which the scheme, or that provision, relates”.
- (3) Subsection (4) (tenders to be invited not later than 3 months after the scheme has been made) shall cease to have effect.

#### **16 Extension of maximum period of quality contracts**

- (1) Section 130 of the TA 2000 (tendering for quality contracts) is amended as follows.
- (2) In subsection (1) (authority to tender for provision of services) after “services to which the scheme” insert “, or each provision of the scheme,”.
- (3) In subsection (2) (period of contract not to exceed five years) for “five” substitute “10”.

#### **17 Continuation of scheme for further period**

After section 131 of the TA 2000 insert –

##### **“131A Continuation of scheme for further period**

- (1) If it appears to them appropriate to do so, the authority or authorities who made the scheme (other than any to whose area the scheme no longer relates) may decide that the scheme should continue in operation for a further period, with or without modification.
- (2) Before making such a decision, they must –
  - (a) publish, in such manner as they think fit, a consultation document complying with subsection (3),
  - (b) supply a copy of that document to each of the persons mentioned in section 125(3), and



- (c) give notice in accordance with section 125(2) of the proposal to continue the scheme in at least one newspaper circulating in the area to which the scheme relates.
- (3) The consultation document mentioned in subsection (2)(a) must include—
- (a) a description of the scheme, together with any proposed modifications to it;
  - (b) a statement of the opinion of the authority or authorities as to the effectiveness of the scheme in achieving the objectives set out in paragraphs (a) to (e) of section 124(1) up to the date of the report;
  - (c) a statement of the reasons why they are satisfied that the scheme as proposed to be continued (with any proposed modifications) will meet the conditions in subsection (1) of section 124;
  - (d) a description of any arrangements which the authority or authorities intend to make (including arrangements with other authorities or other persons) for or in connection with the continuation of the scheme;
  - (e) a statement of the period for which it is proposed that the scheme should continue in operation, which must not be more than a further 10 years;
  - (f) a statement of how any costs which the authority or authorities expect to incur under the scheme are to be defrayed;
  - (g) a declaration by the chief finance officer or officers of the authority or authorities that, after taking into account—
    - (i) any estimated income from fares, and
    - (ii) any grants from Ministers of the Crown or government departments,any remaining funding required to continue the scheme in operation can be provided from other resources available to the authority or authorities.
- (4) Subsections (2) to (6) of section 125 apply in relation to a proposal to continue a scheme as they apply in relation to a proposal to make one, with the following modifications—
- (a) the reference in subsection (5) to the proposed scheme is to be read as a reference to the scheme as proposed to be continued, and
  - (b) the reference in subsection (6) to subsection (1A)(e) of section 125 is to be read as a reference to subsection (3)(g) of this section.
- (5) The consultation document mentioned in subsection (2)(a) must be published and supplied in accordance with subsection (2) not less than 12 months before the later of the following dates—
- (a) the end of the period specified in the scheme in accordance with section 127(2)(c),
  - (b) if the scheme has been continuing in operation by virtue of the previous application of this section, the end of the period for which it is so continuing in operation.
- (6) If the authority or authorities publish and supply a consultation document in accordance with subsection (5), the scheme remains in

operation (without any modifications proposed by them under subsection (1)) until there is a final determination as to whether the scheme should be continued.

- (7) For the purposes of subsection (6), there is a final determination as to whether a scheme should be continued –
- (a) in any case where the authority or authorities decide not to continue the scheme, when they so decide;
  - (b) in any case where the authority or authorities decide to continue the scheme (but subject to paragraph (c)), when the appropriate approvals authority decides whether to approve the continuation of the scheme under section 126, as applied by section 131B;
  - (c) in any case where an appeal is lodged against the decision of the appropriate approvals authority on an application for approval, when the appeal is finally disposed of.
- (8) For the purposes of subsection (7) an appeal is “finally disposed of” on the latest of the following dates –
- (a) the date on which the appeal is finally determined,
  - (b) the date on which the time for any further appeal expires without any such appeal having been made,
  - (c) the date on which the appeal is abandoned or withdrawn,
- and in the paragraphs of this subsection “appeal” includes a reference to any further appeal or appeals.”.

## 18 Approval of continuation of scheme

After section 131A of the TA 2000 insert –

### “131B Approval of continuation of scheme

- (1) Section 126 (approval of scheme by appropriate approval authority) applies in relation to a proposal to continue a scheme as it applies in relation to a proposal to make one, with the modifications set out in subsection (2).
- (2) The modifications are –
- (a) the reference in subsection (1) to section 125 is to be read as a reference to section 131A;
  - (b) any reference to section 125(3) is to be read as a reference to that subsection as applied by section 131A(4);
  - (c) the reference in subsection (4)(a) to the conditions set out in paragraphs (a) to (e) of section 124(1) being met is to be read as a reference to those conditions being met by the scheme as proposed to be continued (with any proposed modifications).”.

## 19 Appeals relating to continuation of scheme

After section 131B of the TA 2000 insert –

### “131C Appeals relating to continuation of scheme

- (1) This section applies where –
- (a) it is proposed that a scheme be continued in operation, and

- (b) the area to which the scheme relates is in England.
- (2) Any person falling within subsection (3) may appeal to the Transport Tribunal against the decision of the approvals board for England on the application for approval of the continuation of the scheme under section 126 as applied by section 131B.
- (3) The persons are –
  - (a) the authority, or any of the authorities, who propose to continue the scheme,
  - (b) any person who was consulted by the authority or authorities by virtue of section 131A.
- (4) Subsections (4) to (6) of section 126C apply in relation to an appeal under subsection (2) as they apply in relation to an appeal under subsection (2) of that section.
- (5) Section 126D (powers of Tribunal) applies in relation to an appeal under this section as it applies in relation to an appeal under section 126C, with the following modifications –
  - (a) the reference in subsection (3)(b) to section 125 is to be read as a reference to section 131A;
  - (b) the reference in subsection (4) to section 126 is to be read as a reference to that section as applied by section 131B.”.

## 20 Variation or revocation of scheme

- (1) Section 132 of the TA 2000 (variation or revocation of scheme) is amended as follows.
- (2) In subsection (2) (which refers to the conditions in certain provisions of section 124) for “subsection (1)(a) and (b)” substitute “subsection (1)(a) to (e)”.
- (3) In subsection (4A)(a) (which contains a similar reference) for “124(1)(a) and (b)” substitute “124(1)(a) to (e)”.
- (4) In subsection (5)(a) for “the authority which approved the making of the scheme” substitute “the appropriate approval authority”.

## 21 Regulations about schemes

- (1) Section 133 of the TA 2000 (regulations about schemes) is amended as follows.
- (2) In subsection (1)(a) (regulations with respect to making, varying or revoking schemes) after “varying” insert “, continuing”.
- (3) In subsection (2) (particular matters for which regulations may provide) –
  - (a) in paragraph (a) (proposed variations or revocation of schemes) after “proposed variations” insert “, continuations”;
  - (b) after paragraph (e) (form and manner of applications for approval) insert –
    - “(ee) the procedure for determining such applications,”;
  - (c) in paragraph (f) (form of schemes or variations) for “or variations” substitute “, variations or continuations”.

**22 Guidance about quality contracts schemes**

After section 134 of the TA 2000 insert –

**“134A Guidance about quality contracts schemes**

- (1) The appropriate national authority may issue guidance concerning the performance by local transport authorities of their functions under this Part in relation to quality contracts schemes.
- (2) Those authorities must have regard to any such guidance.”.

**23 Power to make traffic regulation orders**

- (1) Section 1 of the Road Traffic Regulation Act 1984 (c. 27) (traffic regulation orders outside Greater London) is amended as follows.
- (2) In subsection (3A) (orders may be made by local traffic authority for the purposes of quality partnership schemes) for “facilities pursuant to a quality partnership scheme under Part II of the Transport Act 2000” substitute “relevant bus scheme facilities”.
- (3) After subsection (3A) insert –

“(3B) In subsection (3A) “relevant bus scheme facilities” means –

- (a) facilities provided pursuant to a quality partnership scheme under Part 2 of the Transport Act 2000;
- (b) facilities provided pursuant to a quality contract within the meaning of that Part (see section 124(4) and (5) of that Act) or otherwise in connection with a quality contracts scheme under that Part.”.

*Extension of the competition test***24 Voluntary partnership agreements**

- (1) For section 153 of the TA 2000 (competition test for exercise of bus functions (see Schedule 10 to that Act)) substitute –

**“153 Competition test: functions and agreements relating to buses**

- (1) Schedule 10 contains provision applying competition tests in relation to –
  - (a) the exercise of functions relating to quality partnership schemes, ticketing schemes and subsidised local services, and
  - (b) voluntary partnership agreements and certain agreements, decisions and practices relating to voluntary partnership agreements.
- (2) A voluntary partnership agreement is any voluntary agreement under which –
  - (a) a local transport authority, or two or more local transport authorities, undertake to provide particular facilities in the whole or part of their area, or combined area, and
  - (b) one or more operators of local services undertake to provide services of a particular standard when using those facilities.

- (3) In subsection (2) –  
“facilities” means –  
(a) facilities provided at specific locations along routes served, or proposed to be served, by local services within the area to which the agreement relates, or  
(b) facilities which are ancillary to such facilities,  
“standard”, in the case of any services, includes –  
(a) any requirements which the vehicles being used to provide the services must meet,  
(b) any requirements as to frequency or timing of the services,  
(c) any requirements as to fares or fare increases,  
“voluntary agreement” means an agreement made otherwise than under sections 114 to 123 (quality partnership schemes).”.
- (2) Schedule 10 to the TA 2000 (competition test for exercise of bus functions) is amended in accordance with Schedule 2.

### PART 3

#### GENERAL PROVISIONS RELATING TO PASSENGER TRANSPORT ETC

##### *Appeals against traffic regulation conditions*

#### **25 Transport Tribunal to decide appeals against traffic regulation conditions**

- (1) Section 9 of the TA 1985 (appeals against traffic regulation conditions) is amended as follows.
- (2) In subsection (1) (appeals are to the Secretary of State) for “the Secretary of State” substitute “the Transport Tribunal”.
- (3) Omit subsections (3) and (4).
- (4) For subsection (5) (further appeal) substitute –  
“(5) An appeal lies (in accordance with paragraph 14 of Schedule 4 to this Act) at the instance of any of the persons mentioned in subsection (6) below from a decision of the Transport Tribunal on an appeal under this section.”.
- (5) In subsection (6) –  
(a) for “the Secretary of State” substitute “the Transport Tribunal”;  
(b) for “him” (in both places) substitute “the tribunal”.
- (6) Omit subsections (7) to (9).

##### *Use of hire cars to provide local services*

#### **26 Use of private hire vehicles to provide local services**

- (1) Section 12 of the TA 1985 (use of taxis in providing local services) is amended as follows.

- (2) In subsection (1) (application by holder of taxi licence for special licence to provide local service by means of licensed taxis) –
  - (a) after “a taxi licence” insert “or a private hire vehicle licence”;
  - (b) in paragraph (b) after “licensed taxis” insert “or licensed hire cars”.
- (3) In subsection (5) –
  - (a) after “a taxi licence” insert “or a private hire vehicle licence”;
  - (b) for “the taxi licence of the vehicle in question” substitute “the relevant licence for that vehicle”.
- (4) In subsection (7) for “taxi licences” substitute “relevant licences”.
- (5) In subsection (8) after “a licensed taxi” insert “or a licensed hire car”.
- (6) In subsection (9) after “a licensed taxi” insert “or a licensed hire car”.
- (7) In subsection (10) for the words from “Such provisions” to “being so used;” substitute “At any time when a licensed taxi or a licensed hire car is being so used the prescribed provisions of the taxi code or, as the case may be, the hire car code shall apply in relation to it;”.
- (8) In consequence of the amendments made by this section, in the heading to section 12 after “taxis” there is inserted “or hire cars”.
- (9) In section 13(3) of that Act (interpretation of terms used in sections 10 to 12) insert each of the following definitions at the appropriate place –
  - ““relevant licence” means –
    - (a) in relation to a licensed taxi, a taxi licence, and
    - (b) in relation to a licensed hire car, a private hire vehicle licence;”,
  - ““private hire vehicle licence” means a licence under –
    - (a) section 48 of the Local Government (Miscellaneous Provisions) Act 1976, or
    - (b) section 7 of the Private Hire Vehicles (London) Act 1998;”,

and in the definition of “hire car code” after “used as mentioned in section 11” insert “or 12”.

*Vehicles used under permits*

**27 Permits in relation to use of vehicles by educational and other bodies**

- (1) Section 19 of the TA 1985 (permits in relation to the use of buses by educational and other bodies) is amended as follows.
- (2) In subsection (1) (definitions for sections 19 to 21) in the definition of “permit” for “a bus” substitute “a public service vehicle”.
- (3) In subsection (2) (requirements that must be met for use of a bus under a permit to be exempt from operator licensing) –
  - (a) for “a bus” substitute “a public service vehicle”;
  - (b) for “section 18(a)” substitute “section 18(1)(a)”;
  - (c) for “the bus” substitute “the vehicle”.



- (4) Subsection (3) (grant of certain permits by bodies designated by the Secretary of State under subsection (7)) shall cease to have effect.
- (5) In subsection (4) (grant by traffic commissioner of permits relating to use of a small bus) for “a small bus” substitute “a public service vehicle other than a large bus”.
- (6) Subsection (7) (grant of permits by bodies designated by the Secretary of State) shall cease to have effect.
- (7) In subsection (9) (only one bus to be used at one time under same permit) for “bus” substitute “vehicle”.
- (8) In consequence of the amendments made by this section, the heading to section 19 becomes “Permits in relation to use of public service vehicles by educational and other bodies”.

## **28 Section 27: transitional provisions relating to permits**

- (1) Despite the repeal by section 27 of subsections (3) and (7) of section 19 of the TA 1985, a permit granted by a body designated under subsection (7) of section 19 (“a continuing permit”) shall remain in force as granted by that body until the earliest of the following events –
  - (a) the permit is revoked as mentioned in section 20(7)(a) of that Act;
  - (b) the body which granted the permit ceases to exist;
  - (c) the permit is dealt with in accordance with subsection (2).
- (2) The Secretary of State may by order provide that, on such date as may be specified in the order, any continuing permit –
  - (a) shall be revoked, or
  - (b) shall continue in force as if granted by such traffic commissioner as is specified in, or determined in accordance with, the order.
- (3) An order under subsection (2)(b) may provide for the traffic commissioner to be determined by reference to any of the following –
  - (a) the area (or areas) in which the body holding the permit is carrying on the activity which makes it eligible to hold the permit;
  - (b) the area in which the vehicle has its operating centre;
  - (c) any other relevant circumstances.
- (4) The power to make an order under subsection (2) is exercisable by statutory instrument and includes power –
  - (a) to make different provision for continuing permits of different descriptions;
  - (b) to make incidental, consequential, supplemental or transitional provision or savings.

## **29 Further provision with respect to such permits**

- (1) Section 20 of the TA 1985 (further provision with respect to permits under section 19) is amended as follows.
- (2) In subsection (2) (permit may be granted to named individual) omit “or body”.
- (3) In subsection (4) (attachment of conditions) –
  - (a) omit the words from “In addition to” to “section 19(7)(b) of this Act,”;

- (b) omit “or other body” and “or that body”;
  - (c) in paragraph (a), for “bus” substitute “vehicle”.
- (4) In subsection (5) (variation or revocation of permit) –
    - (a) in paragraph (a), omit “or body”,
    - (b) in paragraph (b), for “bus” substitute “vehicle”.
  - (5) In subsection (7) (duration of permits) omit paragraph (b) and the word “or” preceding it.
  - (6) In section 21(1) of the TA 1985 (regulations with respect to permits under section 19) –
    - (a) in paragraph (a), for “a bus” substitute “a public service vehicle”,
    - (b) in paragraph (d), for “any bus” substitute “any vehicle”.
  - (7) The amendment made by subsection (3)(a) does not have effect in relation to any permit granted before the coming into force of the repeal of section 19(7) of the TA 1985.

### 30 Relaxation of rules relating to community bus services

- (1) Section 22 of the TA 1985 (community bus permits) is amended as follows.
- (2) In subsection (1), in paragraph (c) of the definition of “community bus service” (service must be provided by means of vehicle adapted to carry more than 8 but not more than 16 passengers) omit the words “but not more than sixteen”.
- (3) Section 23 of the TA 1985 (further provisions with respect to community bus permits) is amended as follows.
- (4) In subsection (2) (requirements) omit paragraph (a) (no payment for driver except expenses and loss of earnings).

#### *Services not operated as registered etc*

### 31 Attachment of conditions to related licences

- (1) Section 26 of the TA 1985 (conditions attached to PSV operator’s licence) is amended as follows.
- (2) In subsection (1) (which sets out the cases in which the power is exercisable and the power) –
  - (a) for “Where” substitute “Subsection (1A) below applies in any case where”;
  - (b) for the words from “he may” to the end of subsection (1) substitute the subsections set out in subsection (3).
- (3) The subsections are –
 

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

  - (a) the licence mentioned in subsection (1) above;
  - (b) any other licence held by the operator;



- (c) where the operator is an undertaking, within the meaning of the Companies Acts (see section 1161 of the Companies Act 2006), any licence held by a group undertaking (within the meaning of those Acts) in relation to that undertaking.
- (1B) The conditions are –
- (a) a condition prohibiting the holder of the licence from using vehicles under the licence to provide any local service of a description specified in the condition;
  - (b) a condition prohibiting the holder of the licence from so using vehicles to provide local services of any description.”.
- (4) In subsection (2) –
- (a) after “attach” insert “(or direct another commissioner to attach)”;
  - (b) for “subsection (1)” substitute “subsection (1A)”;
  - (c) for “that subsection” substitute “subsection (1) above”.
- (5) After subsection (2) insert –
- “(2A) Where a direction is given under subsection (1A) above to a traffic commissioner for another area, that traffic commissioner must either –
- (a) attach the condition to the licence, or
  - (b) if he considers that there is a good reason not to attach the condition to the licence, inform the traffic commissioner who gave the direction of that fact and of the reason.”.
- (6) In subsection (3), for “subsection (1)” substitute “subsection (1A)”.
- (7) In subsection (5) (power to impose conditions in certain cases relating to the use of vehicles) –
- (a) for “Where” substitute “Subsection (5A) below applies in any case where”;
  - (b) for the words from “he may” to the end of subsection (5) substitute the subsections set out in subsection (8).
- (8) The subsections are –
- “(5A) The traffic commissioner may (on granting the licence or at any other time) attach, or direct a traffic commissioner for another traffic area to attach, to any one or more of the licences mentioned in subsection (5B) below a condition restricting the vehicles which the operator may use under the licence to vehicles specified in the condition.
- (5B) The licences are the following PSV operator’s licences (wherever granted) –
- (a) the licence mentioned in subsection (5) above;
  - (b) any other licence held by the operator;
  - (c) where the operator is an undertaking, within the meaning of the Companies Acts (see section 1161 of the Companies Act 2006), any licence held by a group undertaking (within the meaning of those Acts) in relation to that undertaking.
- (5C) Where a direction is given under subsection (5A) above to a traffic commissioner for another area, that traffic commissioner must either –
- (a) attach the condition to the licence, or

- (b) if he considers that there is a good reason not to attach the condition to the licence, inform the traffic commissioner who gave the direction of that fact and of the reason.”.
- (9) In subsection (6) –
  - (a) for “subsection (5)” substitute “subsection (5A)”;
  - (b) in paragraph (a) after “the commissioner” insert “who attached that condition”.

### **32 Powers of traffic commissioners where services not operated as registered**

- (1) After section 27 of the TA 1985 (supplementary provisions with respect to conditions attached to a PSV operator’s licence under section 26) insert –

#### **“27A Additional powers where service not operated as registered**

- (1) This section applies in any case where it appears to a traffic commissioner that a person (“the operator”) –
  - (a) has, or may have, failed to operate a local service registered under section 6 of this Act, or
  - (b) has, or may have, failed to operate such a service in accordance with the particulars registered under that section.
- (2) The traffic commissioner may direct a local traffic authority to provide him, within a specified period, with specified information connected with any aspect of the performance of their duties under section 16 or 17 of the Traffic Management Act 2004 (the network management duty, and arrangements for network management).  
This subsection is supplemented by provisions in section 27B of this Act.
- (3) If the traffic commissioner holds an inquiry in connection with deciding whether –
  - (a) to attach a condition under section 26 of this Act, or
  - (b) to impose a penalty under section 155 of the Transport Act 2000,
 subsections (2) and (3) of section 250 of the Local Government Act 1972 (attendance of witnesses etc) apply to the inquiry as they apply to an inquiry under that section.
- (4) If the traffic commissioner identifies any remedial measures (see subsection (5)) which, in the traffic commissioner’s opinion, could be taken –
  - (a) by the operator, or
  - (b) by a local traffic authority,
 the traffic commissioner may prepare a report recommending the implementation of those measures.
- (5) In this section “remedial measures” means measures which, in the opinion of the traffic commissioner, would enable or facilitate the operation of the service in accordance with the particulars registered under section 6 of this Act.
- (6) A traffic commissioner who prepares a report under subsection (4) above –

- (a) must send a copy of the report to the operator and, if any of the recommended remedial measures are for implementation by a local traffic authority, to that authority,
  - (b) may send a copy of the report to any one or more of the persons in subsection (7) below,
  - (c) may publish the report.
- (7) The persons are –
- (a) the appropriate national authority,
  - (b) any local traffic authority which the traffic commissioner considers appropriate,
- and any other persons whom the traffic commissioner considers appropriate.
- (8) See subsection (6) of section 27B of this Act for the meaning of some of the expressions used in this section.

### **27B Provisions supplementing section 27A**

- (1) This section supplements section 27A of this Act.
  - (2) In this section “direction” means a direction under subsection (2) of that section.
  - (3) The information that may be specified in a direction must be information which the local traffic authority have in their possession or can reasonably be expected to acquire.
  - (4) The information that may be specified in a direction includes information relating to –
    - (a) the management of a local traffic authority’s road network, or
    - (b) the use of their road network by different kinds of traffic or the effects of that use.
  - (5) A direction may be given –
    - (a) to one or more local traffic authorities, or
    - (b) to local traffic authorities of a description specified in the direction.
  - (6) In section 27A of this Act and in this section the following expressions have the same meaning as in Part 2 of the Traffic Management Act 2004 (network management by local traffic authorities) –
    - appropriate national authority,
    - local traffic authority,
    - road network,
    - traffic,except that “local traffic authority” does not include Transport for London, a London borough council or the Common Council of the City of London.”
- (2) In section 155 of the TA 2000 (penalties) at the end insert –
- “(8) Other provisions that may need to be considered include the following provisions of the Transport Act 1985 –
    - (a) sections 26 and 27 (attachment of conditions to PSV operator’s licence),

- (b) sections 27A and 27B (additional powers of traffic commissioner where services are not operated as registered etc).”.

*Subsidised services*

**33 Subsidy to secure passenger transport services in passenger transport areas**

- (1) Section 9A of the Transport Act 1968 (c. 73) (general functions of Passenger Transport Authorities and Executives) is amended as follows.
- (2) In subsection (4)(a) (power to enter into agreements providing for service subsidies) after “would not be provided” insert “, or would not be provided to a particular standard,”.
- (3) After subsection (4) insert –
  - “(4A) The reference in subsection (4)(a) of this section to the standard to which a service is provided includes –
    - (a) the frequency or timing of the service;
    - (b) the days, or times of day, when the service is provided;
    - (c) the vehicles used to provide the service.”.

**34 Subsidy to secure passenger transport services in other areas**

- (1) Section 63 of the TA 1985 (functions of local councils with respect to passenger transport in areas other than passenger transport areas) is amended as follows.
- (2) In subsection (5) (power to enter into agreements providing for service subsidies) at the beginning of paragraph (a) insert “in England and Wales, shall be exercisable only where the service in question would not be provided, or would not be provided to a particular standard, without subsidy;
  - (aa) in Scotland,”.
- (3) After subsection (5) insert –
  - “(5A) The reference in subsection (5)(a) above to the standard to which a service is provided includes –
    - (a) the frequency or timing of the service;
    - (b) the days, or times of day, when the service is provided;
    - (c) the vehicles used to provide the service.”.

**35 Subsidy to secure passenger transport services in Wales**

- (1) Section 7 of the Transport (Wales) Act 2006 (c. 5) (provision of public passenger transport services) is amended as follows.
- (2) In subsection (4) (circumstances in which agreements providing for service subsidies may be entered into) after “would not be provided” insert “, or would not be provided to a particular standard,”.
- (3) After subsection (4) insert –
  - “(4A) The reference in subsection (4) to the standard to which a service is provided includes –
    - (a) the frequency or timing of the service;

- (b) the days, or times of day, when the service is provided;
- (c) the vehicles used to provide the service.”.

### **36 Extension of maximum length of subsidised services agreements**

In section 90(1) of the TA 1985 (maximum period to be specified in invitation to tender for agreement providing for service subsidies) for “five years” substitute “8 years”.

*Public transport companies etc*

### **37 Removal of certain requirements for Secretary of State’s consent**

- (1) Part 4 of the TA 1985 (which makes provision for the establishment of public transport companies and for the powers of Passenger Transport Authorities etc in relation to them) is amended as follows.
- (2) Each of the following (which require the consent of the Secretary of State for the exercise of certain powers) is omitted –
  - (a) section 75(3) (subscription for, or acquisition or disposal of, certain shares, securities or other property or assets etc);
  - (b) section 79(3) (making or guaranteeing of certain loans);
  - (c) section 79(7) (guarantees etc in connection with disposals of certain shares, securities or other property or assets etc);
  - (d) in section 79(8) (provision of financial assistance by way of grants, loans, etc) the words “, with the consent of the Secretary of State,”.

## **PART 4**

### **PASSENGER TRANSPORT AUTHORITIES ETC**

#### **CHAPTER 1**

##### **INTRODUCTORY**

### **38 References to Passenger Transport Authority etc**

- (1) In this Part –
  - (a) “PTA” means a Passenger Transport Authority for a passenger transport area in England,
  - (b) any reference to a PTA is a reference to a PTA for the purposes of Part 2 of the Transport Act 1968 (c. 73),
  - (c) any reference to a passenger transport area is a reference to a passenger transport area in England for the purposes of that Part of that Act.
- (2) Except where the context otherwise requires, any reference in this Part to a PTA includes a reference to –
  - (a) a metropolitan county passenger transport authority established under section 28 of the Local Government Act 1985 (c. 51), and
  - (b) a PTA established under this Part.

- (3) Except where the context otherwise requires, any reference in an enactment (whenever passed or made), in relation to a passenger transport area in England, to—
- (a) a metropolitan county passenger transport authority, or
  - (b) a PTA,
- includes a reference to a PTA established under this Part.
- (4) Accordingly, any reference in an enactment (whenever passed or made) which—
- (a) is to a joint authority established under Part 4 of the Local Government Act 1985 (c. 51), and
  - (b) includes a reference to a metropolitan county passenger transport authority established under section 28 of that Act,
- includes a reference to a PTA established under this Part.
- (5) The metropolitan county passenger transport authorities established under section 28(1) of the Local Government Act 1985 are to be known as Passenger Transport Authorities.
- (6) Schedule 3 makes amendments consequential on subsection (5).
- (7) In this section “enactment” includes an enactment comprised in subordinate legislation (within the meaning of the Interpretation Act 1978 (c. 30)).

## CHAPTER 2

### ARRANGEMENTS RELATING TO PASSENGER TRANSPORT AUTHORITIES

#### *Establishment of new PTA by order*

#### **39 Power to establish a new PTA**

- (1) The Secretary of State may by order—
- (a) designate any area in England outside Greater London as a passenger transport area, and
  - (b) establish a PTA for the passenger transport area.
- (2) An order may be made only if—
- (a) a scheme has been published under subsection (4) for the establishment of the PTA for the proposed passenger transport area, and
  - (b) the Secretary of State considers that the establishment of the PTA is likely to improve—
    - (i) the exercise of statutory functions relating to transport in the proposed passenger transport area, and
    - (ii) the effectiveness and efficiency of transport within the area.
- (3) Any two or more of the following authorities—
- (a) a council for a county in England comprised in an area for which there is no PTA,
  - (b) a council for a non-metropolitan district in England comprised in an area for which there is no county council and no PTA,
  - (c) a council for a metropolitan district in England comprised in an area for which there is no PTA,



may undertake a review of the effectiveness and efficiency of transport within their combined areas.

- (4) Where two or more authorities have –
  - (a) undertaken a review under subsection (3), and
  - (b) concluded that the designation of their combined areas as a passenger transport area, and the establishment of a PTA for the passenger transport area, would improve –
    - (i) the exercise of statutory functions relating to transport in the proposed passenger transport area, and
    - (ii) the effectiveness and efficiency of transport within the area,they must prepare and publish a scheme for the establishment of a PTA for the proposed passenger transport area.
- (5) A passenger transport area may be designated by an order only if –
  - (a) it consists of the combined areas of the authorities who publish the scheme, and
  - (b) no part of the area is separated from the rest of it by a territory not included in the area.
- (6) An order may –
  - (a) make provision about the constitutional arrangements of the PTA,
  - (b) make, in relation to the PTA, any provision which may be made by an order under section 45, 46 or 47.
- (7) “Constitutional arrangements” has the meaning given by section 44(2).
- (8) Before making an order the Secretary of State must consult –
  - (a) such representatives of authorities mentioned in subsection (3), and
  - (b) such other persons (if any),as the Secretary of State considers appropriate.
- (9) In making an order the Secretary of State must have regard to the need –
  - (a) to reflect the identities and interests of local communities, and
  - (b) to secure effective and convenient local government.
- (10) In making an order the Secretary of State must have regard to the scheme which has been prepared and published under subsection (4).

*Other powers to make orders about arrangements relating to a PTA*

**40 Secretary of State’s power to direct a review**

- (1) The Secretary of State may direct one or more of the authorities falling within subsection (2) (including two or more authorities of the same description) to undertake a review of one or more of the matters mentioned in subsection (3).
- (2) An authority falls within this subsection if it is –
  - (a) a PTA,
  - (b) a district council for an area comprised in a passenger transport area,
  - (c) a county council for an area comprised in a passenger transport area,
  - (d) a local transport authority for an area which could be comprised in any proposed passenger transport area to which the direction relates.



- (3) The matters are—
  - (a) those in relation to which an order may be made under any of sections 44 to 50,
  - (b) in relation to a PTA or any executive body of the PTA existing at the time of the direction, any matter concerning the PTA or the executive body which the PTA has power to determine.
- (4) A direction under this section must relate to one or more passenger transport areas or proposed passenger transport areas.
- (5) In this section—
  - (a) a “proposed passenger transport area” means one which may be designated by an order under section 49 (PTA boundary changes),
  - (b) “local transport authority” means an authority, other than a PTA, which is a local transport authority for the purposes of section 108(4) of the TA 2000.
- (6) If a direction is given to two or more authorities the review must be undertaken jointly by all the authorities subject to the direction.
- (7) A direction may require the preparation and publication of a scheme relating to the power to make an order under any of sections 44 to 50.
- (8) The Secretary of State may give a direction only if the Secretary of State considers that the review and any scheme are likely to improve—
  - (a) the exercise of statutory functions relating to transport in a passenger transport area or proposed passenger transport area, and
  - (b) the effectiveness and efficiency of transport within such an area.
- (9) The provision which may be made by a direction includes provision for—
  - (a) the timetable for the review and for the preparation and publication of a scheme,
  - (b) the procedures to be followed in carrying out the review,
  - (c) particular issues which the review and any scheme must address,
  - (d) the implementation of any scheme.
- (10) In relation to the dissolution of a passenger transport area (see section 50) the references in subsection (8) to a passenger transport area have effect as references to the territory comprised in a dissolved passenger transport area.

#### **41 Guidance**

- (1) The Secretary of State may give guidance about anything which could be included in a direction under section 40.
- (2) In complying with any direction given under section 40 an authority must have regard to any guidance given by the Secretary of State.

#### **42 Complying with a direction**

- (1) An authority to which a direction is given under section 40 must, in carrying out the review and preparing any scheme, do so in the manner that they consider most likely to improve—
  - (a) the exercise of statutory functions relating to transport in a passenger transport area or proposed passenger transport area, and

- (b) the effectiveness and efficiency of transport within such an area.
- (2) When carrying out a review and preparing any scheme in accordance with a direction under section 40 an authority may include in the review and any scheme—
  - (a) any matter (whether or not it is the subject of the direction) in relation to which an order may be made under any of sections 44 to 50, and
  - (b) where the review is carried out by a PTA, whether alone or jointly, any matter concerning the PTA which the PTA has power to determine.
- (3) In relation to the dissolution of a passenger transport area (see section 50) the references in subsection (1) to a passenger transport area have effect as references to the territory comprised in a dissolved passenger transport area.

#### **43 Further provision about directions and guidance**

- (1) Any direction under section 40, or guidance under section 41, must be given in writing and may be varied or revoked by further direction or guidance in writing.
- (2) Any such direction or guidance may make different provision for different cases and different provision for different areas.

#### **44 Constitutional arrangements**

- (1) The Secretary of State may by order make provision about the constitutional arrangements of a PTA.
- (2) “Constitutional arrangements”, in relation to a PTA, means—
  - (a) the membership of the PTA (including the number and appointment of members of the PTA and the remuneration of, and pensions or allowances payable to or in respect of, any member of the PTA),
  - (b) the voting powers of members of the PTA (including provision for different weight to be given to the vote of different descriptions of member),
  - (c) the executive arrangements of the PTA,
  - (d) the functions of any executive body of the PTA.
- (3) In subsection (2)(c) “executive arrangements” means—
  - (a) the appointment of an executive,
  - (b) the functions of the PTA which are the responsibility of an executive,
  - (c) the functions of the PTA which are the responsibility of an executive and which may be discharged by a committee of the PTA or by a body other than the PTA,
  - (d) arrangements relating to the review and scrutiny of the discharge of functions,
  - (e) access to information on the proceedings of an executive of the PTA,
  - (f) the disapplication of section 15 of the Local Government and Housing Act 1989 (c. 42) (duty to allocate seats to political groups) in relation to an executive of the PTA or a committee of such an executive,
  - (g) the keeping of a record of any arrangements relating to the PTA and falling within paragraphs (a) to (f).
- (4) The provision which may be made by an order by virtue of subsection (2)(d) includes—

- (a) provision setting up or dissolving an executive body of a PTA, or merging two or more executive bodies of a PTA,
  - (b) provision conferring functions on, or removing functions from, an executive body of a PTA,
  - (c) provision transferring functions of a PTA to an executive body of the PTA, and transferring functions of an executive body of a PTA to the PTA.
- (5) An order may not provide for the budget of a PTA to be agreed otherwise than by the PTA.

#### **45 Delegation of functions of the Secretary of State**

- (1) The Secretary of State may, to any extent, by order delegate to a PTA or an eligible local transport authority any function of the Secretary of State—
- (a) which does not consist of a power to make regulations or other instruments of a legislative character or a power to fix fees or charges, and
  - (b) which the Secretary of State considers can appropriately be exercised by the PTA or eligible local transport authority.
- (2) A delegation by virtue of this section may be made subject to conditions.
- (3) “Eligible local transport authority” means an authority which has been designated as a local transport authority by an order under section 49 or 50.

#### **46 Delegation of local authority functions**

- (1) The Secretary of State may, to any extent, by order provide for the delegation, to a PTA or an eligible local transport authority, of any function of a local authority—
- (a) which is exercisable by the local authority in relation to an area which is comprised in the PTA’s passenger transport area or the eligible local transport authority’s area, and
  - (b) which the Secretary of State considers can appropriately be exercised by the PTA or eligible local transport authority.
- (2) A delegation by virtue of this section may be made subject to conditions.
- (3) “Local authority” means—
- (a) a county council,
  - (b) a council for a metropolitan district,
  - (c) a council for a non-metropolitan district comprised in an area for which there is no county council.
- (4) “Eligible local transport authority” means an authority which has been designated as a local transport authority by an order under section 49 or 50.

#### **47 Conferral of a power to direct**

- (1) The Secretary of State may by order confer on—
- (a) a PTA, or
  - (b) an authority which has been designated as a local transport authority by an order under section 49 or 50,
- a power to give a direction about the exercise of an eligible power.

- (2) An “eligible power” means a power of a council for a county, metropolitan district or non-metropolitan district comprised in an area for which there is no county council, which the council has—
  - (a) as highway authority by virtue of section 1 of the Highways Act 1980 (c. 66), or
  - (b) as traffic authority by virtue of section 121A of the Road Traffic Regulation Act 1984 (c. 27).
- (3) In this section references to a power do not include references to a duty.
- (4) A power of direction under this section must relate only to the exercise of an eligible power in—
  - (a) the area of the directing authority, and
  - (b) the area of the authority subject to the direction.
- (5) Where an authority has been designated as a local transport authority by an order under section 50 (dissolution of a passenger transport area), the reference in subsection (4) to the area of the authority is a reference to the territory previously comprised in the passenger transport area.
- (6) A power of direction under this section must relate only to the exercise of an eligible power in respect of—
  - (a) a particular road (whether or not specified in the order), or
  - (b) a description of road (whether or not specified in the order).
- (7) In subsection (6) “road”—
  - (a) has the meaning given by section 142(1) of the Road Traffic Regulation Act 1984, and
  - (b) does not include any road which is the subject of a concession agreement under Part 1 of the New Roads and Street Works Act 1991 (c. 22).
- (8) A power of direction under this section must relate only to any one or more of—
  - (a) the provision of information about the exercise of an eligible power which the authority subject to the direction has or might reasonably be expected to acquire,
  - (b) the imposition on such an authority of requirements relating to procedures to be followed prior to the exercise of an eligible power,
  - (c) the imposition on such an authority of requirements relating to the obtaining of consent prior to the exercise of an eligible power,
  - (d) the imposition on such an authority of conditions subject to which an eligible power may be exercised (including conditions relating to the times at which, and the manner in which, an eligible power may be exercised),
  - (e) a requirement to exercise an eligible power (including a requirement to exercise an eligible power subject to conditions),
  - (f) a prohibition on the exercise of an eligible power.
- (9) A power given by virtue of this section may be given subject to conditions.
- (10) Any direction given by virtue of this section—
  - (a) must be given in writing and may be varied or revoked by further direction in writing, and

- (b) may make different provision for different cases and different provision for different areas.
- (11) If an order makes provision for a direction by virtue of subsection (8)(e), the order must make provision for the direction not to have effect unless the directing authority meets the cost of complying with the direction.
- (12) An order under this section must not provide that an authority is subject to concurrent directions given by more than one directing authority about the exercise of the same eligible power.

#### **48 Contravention of an order under section 47**

- (1) An order under section 47 may provide that, if an authority exercises any power in contravention of a direction under such an order, the directing authority may take such steps as it considers appropriate to reverse or modify the effect of the exercise of the power.
- (2) For the purposes of subsection (1), the directing authority has power to exercise any power of the authority subject to the direction on behalf of that authority.
- (3) Any reasonable expenses incurred by the directing authority in taking any steps under subsection (1) are recoverable from the authority subject to the direction as a civil debt.

#### **49 Changing the boundaries of a passenger transport area**

- (1) The Secretary of State may by order designate a passenger transport area in England by –
  - (a) including in a passenger transport area the area of an authority which is a local transport authority, or
  - (b) removing from a passenger transport area the area of an authority which would, were the area not included in a passenger transport area, be a local transport authority.
- (2) “Local transport authority” means an authority, other than a PTA, which is a local transport authority for the purposes of section 108(4) of the TA 2000.
- (3) A passenger transport area may be designated by an order only if no part of the area is separated from the rest of it by a territory not included in the area.
- (4) Where by virtue of an order a territory ceases to be comprised in a passenger transport area, the order –
  - (a) must make provision for designating an authority to be a local transport authority for the territory for the purposes of section 108(4) of the TA 2000, and
  - (b) may transfer functions to that authority from the PTA which was formerly the local transport authority.
- (5) Provision made by virtue of subsection (4) may designate different authorities for different parts of the territory.

#### **50 Dissolution of a passenger transport area**

- (1) The Secretary of State may by order dissolve a passenger transport area and abolish the PTA for the passenger transport area.

- (2) The order –
  - (a) must make provision for designating an authority to be a local transport authority for the territory previously comprised in the passenger transport area for the purposes of section 108(4) of the TA 2000, and
  - (b) may transfer functions to that authority from the PTA which was formerly the local transport authority.
- (3) Provision made by virtue of subsection (2) may designate different authorities for different parts of the territory.

*Further provision about orders*

**51 Orders under sections 44 to 50**

- (1) This section applies to an order made under any of sections 44 to 50.
- (2) An order may be made in relation to any matter only if –
  - (a) a direction has been given under section 40 in relation to the matter and any period specified in the direction for the preparation and publication of a scheme has expired, or
  - (b) the matter has been included in a scheme prepared and published by any authority under that section.
- (3) An order may be made only if the Secretary of State considers that the order is likely to improve –
  - (a) the exercise of statutory functions relating to transport within the areas to which the order relates, and
  - (b) the effectiveness and efficiency of transport within those areas.
- (4) In making an order the Secretary of State must have regard to the need –
  - (a) to reflect the identities and interests of local communities, and
  - (b) to secure effective and convenient local government.
- (5) In making an order in relation to any matter the Secretary of State must have regard to any scheme relating to that matter which has been prepared and published under section 40.
- (6) Before making an order the Secretary of State must consult –
  - (a) such representatives of authorities mentioned in section 40(2), and
  - (b) such other persons (if any),as the Secretary of State considers appropriate.
- (7) An order which makes provision for dissolution of a passenger transport area may be made only with the consent of –
  - (a) a majority of the councils for any metropolitan districts whose areas are comprised in the passenger transport area,
  - (b) a majority of the councils for any counties whose areas are comprised in the passenger transport area,
  - (c) a majority of any unitary councils for any non-metropolitan districts whose areas are comprised in the passenger transport area.
- (8) An order which changes the boundaries of a passenger transport area may be made only if each council mentioned in subsection (9) has consented to the boundary change.



- (9) The councils are –
- (a) any council for a county or a metropolitan district, and any unitary council, whose area –
    - (i) is comprised in the existing passenger transport area, and
    - (ii) would not be comprised in the proposed passenger transport area,
  - (b) any council for a county or a metropolitan district, and any unitary council, whose area –
    - (i) is not comprised in the existing passenger transport area, and
    - (ii) would be comprised in the proposed passenger transport area.
- (10) A “unitary council” is a council for a non-metropolitan district comprised in an area for which there is no county council.
- (11) This section has effect in relation to the variation or revocation of an order as it has effect in relation to the making of an order.

## **52 Incidental etc provision**

- (1) The Secretary of State may by order make incidental, consequential, transitional or supplementary provision for the purposes of, or in consequence of, an order under this Chapter, or for giving full effect to such an order.
- (2) The provision which may be included by virtue of this section in an order includes provision for the transfer of property, rights and liabilities by –
  - (a) the order,
  - (b) a scheme made by the Secretary of State under the order,
  - (c) a scheme required to be made under the order by a person other than the Secretary of State.
- (3) The provision which may be included by virtue of subsection (2) in an order includes provision –
  - (a) for the creation or imposition by the Secretary of State of new rights or liabilities in respect of anything transferred by or under an order,
  - (b) for the management or custody of transferred property,
  - (c) for bodies to make agreements with respect to any property, income, rights, liabilities and expenses, and any financial relations between, the parties to the agreement.
- (4) The provision which may be included by virtue of this section in an order includes provision amending, repealing or revoking any enactment, whenever passed or made.
- (5) In this section “enactment” includes an enactment comprised in subordinate legislation (within the meaning of the Interpretation Act 1978 (c. 30)).

## **53 Procedure for orders under this Chapter**

- (1) Any power to make an order under this Chapter is exercisable by statutory instrument.
- (2) A statutory instrument containing an order under this Chapter may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.



*Power to change name*

**54 Change of name of PTA**

- (1) A PTA may, by a resolution in relation to which the requirements mentioned in subsection (2) are met, change the name by which they are known.
- (2) The requirements are—
  - (a) that the resolution is considered at a meeting of the PTA which is specially convened for the purpose,
  - (b) that particulars of the resolution were included in the notice of the meeting, and
  - (c) that the resolution is passed at the meeting by not less than two-thirds of the members of the PTA who vote on it.
- (3) A PTA which changes its name under this section must—
  - (a) send notice of the change to the Secretary of State, and
  - (b) publish the notice in such manner as the Secretary of State may direct.
- (4) A change of name under this section does not affect the rights or obligations of the PTA concerned or any other person, or render defective any legal proceedings; and any legal proceedings may be commenced or continued as if there had been no change of name.

**55 Amendment of power to reorganise functions**

- (1) Section 42 of the Local Government Act 1985 (c. 51) (reorganisation of functions by Secretary of State) is amended in accordance with subsections (2) and (3).
- (2) In subsection (1)—
  - (a) omit “any of the following purposes”,
  - (b) omit paragraph (c),
  - (c) in paragraph (d), omit “whether or not an order is made for any of the foregoing purposes”.
- (3) In subsection (3) omit “any passenger transport authority,”.
- (4) In section 9(1) of the Transport Act 1968 (c. 73) (Passenger Transport Areas, etc) omit “Subject to any order under section 42(1)(c) of the Local Government Act 1985 (alteration or abolition of passenger transport areas, etc)”.

**CHAPTER 3**

FUNCTIONS OF PASSENGER TRANSPORT AUTHORITIES ETC

*Transport policies*

**56 Development of policies no longer joint duty with district councils**

- (1) In section 113 of the TA 2000 (role of metropolitan district councils)—
  - (a) omit subsection (1),
  - (b) in subsection (2), omit “, 109(4), 110(3)”,
  - (c) omit subsection (3).

- (2) In section 162 of that Act (interpretation for the purposes of Part 2) omit subsection (6).
- (3) In section 198 of that Act (interpretation for the purposes of Part 3) omit subsection (2).

## 57 Nature of duty to develop transport policies

- (1) Section 108 of the TA 2000 (local transport plans) is amended as follows.
- (2) In subsection (1)(a), omit “facilities and services”.
- (3) In subsection (2) –
  - (a) for the words from the beginning to “are” substitute “In subsection (1), “transport” means”,
  - (b) for “those”, in both places, substitute “the transport”,
  - (c) for “include” substitute “includes”.
- (4) After subsection (2) insert –
  - “(2ZA) The duties in subsection (2ZB) apply to –
    - (a) each Passenger Transport Authority in developing policies in accordance with subsection (1)(a), and
    - (b) each Passenger Transport Authority and each metropolitan district council in carrying out their functions in accordance with subsection (1)(b) (see section 113(2)).
  - (2ZB) The duties are –
    - (a) to take into account any policies announced by Her Majesty’s government with respect to climate change or the consequences of climate change, and
    - (b) to have regard to any guidance issued for the purposes of this paragraph by the Secretary of State with respect to climate change or the consequences of climate change.
  - (2ZC) The power to issue guidance under subsection (2ZB)(b) does not affect the generality of the power to issue guidance under section 112(1).
  - (2ZD) For the purposes of subsection (2ZB) –
    - (a) “climate change” means changes in climate which are, or which might reasonably be thought to be, the result of human activity altering the composition of the global atmosphere and which are in addition to natural climate variability,
    - (b) “changes in climate” includes a reference to changes in climate which are reasonably expected, or might reasonably be expected, to happen or which are reasonably thought to be happening or to have recently happened.
  - (2ZE) In subsection (2ZB), “consequences”, in relation to climate change –
    - (a) means consequences which have occurred, are occurring or might reasonably be expected to occur, and
    - (b) includes any phenomena reasonably thought to be consequences of climate change.”.

## 58 Integrated Transport Strategies and Implementation Plans

- (1) In subsection (3) of section 108 of the TA 2000 (duty to prepare local transport plan) after “authority” insert “, other than a Passenger Transport Authority,”.
- (2) After that subsection insert –
  - “(3A) Each Passenger Transport Authority must prepare a document to be known as the Integrated Transport Strategy containing their policies under subsection (1)(a).
  - (3B) Each Passenger Transport Authority must prepare a document to be known as the Integrated Transport Implementation Plan setting out their proposals for the implementation of the Integrated Transport Strategy.”.
- (3) After that section insert –

### “108A Integrated Transport Strategies

- (1) A Passenger Transport Authority must keep their Integrated Transport Strategy under review and alter it if they consider it appropriate to do so.
- (2) A Passenger Transport Authority may replace their Strategy as they think fit.
- (3) In preparing their Strategy, and in keeping it under review, a Passenger Transport Authority must consult –
  - (a) each local traffic authority (within the meaning of the Road Traffic Regulation Act 1984) for any area within the passenger transport area of the Passenger Transport Authority,
  - (b) the Secretary of State in relation to functions which the Secretary of State has –
    - (i) as highway authority by virtue of section 1 of the Highways Act 1980, or
    - (ii) as traffic authority by virtue of section 121A of the Road Traffic Regulation Act 1984,
  - (c) each county council and each district council for any area within the passenger transport area of the Passenger Transport Authority,
  - (d) such other persons as the Passenger Transport Authority consider appropriate.
- (4) As soon as practicable after any occasion when they prepare a new Strategy or alter their Strategy, a Passenger Transport Authority must –
  - (a) publish the Strategy or the Strategy as altered in such manner as they think fit, and
  - (b) send a copy of it to the Secretary of State and to such other persons (if any) as may be specified in guidance under section 112(1).
- (5) A Passenger Transport Authority must also –
  - (a) cause a copy of their Strategy to be made available for inspection (at all reasonable hours) at such places as they think fit,

- (b) give notice, by such means as they think expedient for bringing it to the attention of the public, as to the places at which a copy of it may be inspected, and
- (c) supply a copy of it (or any part of it) to any person on request, either free of charge or at a charge representing no more than the cost of providing the copy.

### **108B Integrated Transport Implementation Plans**

- (1) A Passenger Transport Authority must keep their Integrated Transport Implementation Plan under review and alter it if they consider it appropriate to do so.
- (2) A Passenger Transport Authority may replace their Plan as they think fit.
- (3) In preparing their Plan, and in keeping it under review, a Passenger Transport Authority must consult –
  - (a) each local traffic authority (within the meaning of the Road Traffic Regulation Act 1984) for any area within the passenger transport area of the Passenger Transport Authority,
  - (b) the Secretary of State in relation to functions which the Secretary of State has –
    - (i) as highway authority by virtue of section 1 of the Highways Act 1980, or
    - (ii) as traffic authority by virtue of section 121A of the Road Traffic Regulation Act 1984,
  - (c) each county council and each district council for any area within the passenger transport area of the Passenger Transport Authority,
  - (d) such other persons as the Passenger Transport Authority consider appropriate.
- (4) As soon as practicable after any occasion when they prepare a new Plan or alter their Plan, a Passenger Transport Authority must –
  - (a) publish the Plan or the Plan as altered in such manner as they think fit, and
  - (b) send a copy of it to the Secretary of State and to such other persons (if any) as may be specified in guidance under section 112(1).
- (5) A Passenger Transport Authority must also –
  - (a) cause a copy of their Plan to be made available for inspection (at all reasonable hours) at such places as they think fit,
  - (b) give notice, by such means as they think expedient for bringing it to the attention of the public, as to the places at which a copy of it may be inspected, and
  - (c) supply a copy of it (or any part of it) to any person on request, either free of charge or at a charge representing no more than the cost of providing the copy.
- (6) A Passenger Transport Authority must, in complying with the duty under section 108(1)(b), have regard to their Plan.
- (7) A council for a metropolitan district comprised in a passenger transport area must, in complying with the duty under section 108(1)(b) by virtue

of section 113(2), have regard to the Integrated Transport Implementation Plan of the Passenger Transport Authority for the passenger transport area.”.

- (4) In section 109 of the TA 2000 (further provision about local transport plans) at the end add –
  - “(7) This section does not apply to a Passenger Transport Authority.”.
- (5) In section 112 of the TA 2000 (plans and strategies: supplementary) after subsection (1) insert –
  - “(1A) Subsection (1) applies to any Integrated Transport Strategy and any Integrated Transport Implementation Plan as it applies to a local transport plan.”.
- (6) Except where the context otherwise requires, any reference to a local transport plan –
  - (a) in relation to a PTA for a passenger transport area in England, and
  - (b) contained in any provision of, or made under, an Act passed before this Act or in the same Session,is a reference to the PTA’s Integrated Transport Strategy.

## **59 Bus strategies for a passenger transport area no longer required**

- (1) In subsection (1) of section 110 of the TA 2000 (bus strategies) –
  - (a) after “local transport authority” insert “other than a Passenger Transport Authority”, and
  - (b) omit the words from “(or,” to “out)”.
- (2) Omit subsection (4) of that section.
- (3) In subsection (2) of section 111 of that Act (consultation and publicity about bus strategies) omit the words from “(except” to the end.
- (4) In section 89 of the TA 1985 (obligation to invite tenders for subsidised services) –
  - (a) in subsection (7)(b), at the beginning insert “except where the authority is a Passenger Transport Executive for a passenger transport area,”, and
  - (b) omit subsection (8)(c).

### *Power to promote well-being*

## **60 Power to promote well-being**

- (1) A PTA have power to do anything which they consider is likely to achieve any one or more of the following objects –
  - (a) the promotion or improvement of the economic well-being of their area,
  - (b) the promotion or improvement of the social well-being of their area,
  - (c) the promotion or improvement of the environmental well-being of their area.
- (2) The power under subsection (1) may be exercised in relation to or for the benefit of –

- (a) the whole or any part of the passenger transport area, or
  - (b) all or any persons resident or present in, or travelling in or through, the passenger transport area.
- (3) The power under subsection (1) includes power for a PTA to—
- (a) incur expenditure,
  - (b) give financial assistance to any person,
  - (c) enter into arrangements or agreements with any person,
  - (d) co-operate with, or facilitate or co-ordinate the activities of, any person,
  - (e) exercise on behalf of any person any functions of that person, and
  - (f) provide staff, goods, services or accommodation to any person.
- (4) The power under subsection (1) includes power for a PTA to do anything in relation to, or for the benefit of, any person or area situated outside their area if they consider that it is likely to achieve any one or more of the objects in that subsection.
- (5) Nothing in subsection (3) or (4) affects the generality of the power under subsection (1).

#### **61 Limits on power to promote well-being**

- (1) The power under section 60(1) does not enable a PTA to do anything which they are unable to do by virtue of any prohibition, restriction or limitation on their powers which is contained in any enactment (whenever passed or made).
- (2) The power under section 60(1) does not enable a PTA to raise money (whether by precepts, borrowing or otherwise).
- (3) The Secretary of State may by order made by statutory instrument make provision preventing PTAs from doing, by virtue of section 60(1), anything which is specified, or is of a description specified, in the order.
- (4) The power under subsection (3) may be exercised in relation to—
- (a) all PTAs,
  - (b) particular PTAs, or
  - (c) PTAs of particular descriptions.
- (5) Before making an order under subsection (3), the Secretary of State must consult—
- (a) such representatives of PTAs,
  - (b) such representatives of local government, and
  - (c) such other persons (if any),
- as the Secretary of State considers appropriate.
- (6) Subsection (5) does not apply to an order under subsection (3) which is made only for the purpose of amending an earlier order under that subsection—
- (a) so as to extend the earlier order, or any provision of the earlier order, to a particular PTA or to PTAs of a particular description, or
  - (b) so that the earlier order, or any provision of the earlier order, ceases to apply to a particular PTA or to PTAs of a particular description.
- (7) Before exercising the power under section 60(1), a PTA must have regard to any guidance for the time being issued by the Secretary of State about the exercise of that power.



- (8) Before issuing any guidance under subsection (7), the Secretary of State must consult –
  - (a) such representatives of PTAs,
  - (b) such representatives of local government, and
  - (c) such other persons (if any),as the Secretary of State considers appropriate.
- (9) In this section “enactment” includes an enactment comprised in subordinate legislation (within the meaning of the Interpretation Act 1978 (c. 30)).
- (10) A statutory instrument containing an order under this section may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.

## **62 Power to amend or repeal enactments**

- (1) If the Secretary of State thinks that an enactment (whenever passed or made) prevents or obstructs PTAs from exercising their power under section 60(1), the Secretary of State may by order made by statutory instrument amend, repeal, revoke or disapply that enactment.
- (2) The power under subsection (1) may be exercised in relation to –
  - (a) all PTAs,
  - (b) particular PTAs, or
  - (c) PTAs of a particular description.
- (3) The power under subsection (1) to amend or disapply an enactment includes a power to amend or disapply an enactment for a particular period.
- (4) In this section “enactment” includes an enactment comprised in subordinate legislation (within the meaning of the Interpretation Act 1978).
- (5) A statutory instrument containing an order under this section may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.

## **63 Procedure for orders under section 62**

- (1) Before making an order under section 62 the Secretary of State must consult –
  - (a) such representatives of PTAs,
  - (b) such representatives of local government, and
  - (c) such other persons (if any),as appear to the Secretary of State likely to be affected by the proposals.
- (2) If, following consultation under subsection (1), the Secretary of State proposes to make an order under section 62, the Secretary of State must lay before each House of Parliament a document which –
  - (a) explains the proposals,
  - (b) sets them out in the form of a draft order, and
  - (c) gives details of consultation under subsection (1).
- (3) Where a document relating to proposals is laid before Parliament under subsection (2), no draft of an order under section 62 to give effect to the proposals (with or without modifications) is to be laid before Parliament in



accordance with section 62(5) until after the expiry of the period of sixty days beginning with the day on which the document was laid.

- (4) In calculating the period mentioned in subsection (3) no account is to be taken of any time during which –
  - (a) Parliament is dissolved or prorogued, or
  - (b) either House is adjourned for more than four days.
- (5) In preparing a draft order under section 62 the Secretary of State must consider any representations made during the period mentioned in subsection (3).
- (6) A draft order under section 62 which is laid before Parliament in accordance with section 62(5) must be accompanied by a statement of the Secretary of State giving details of –
  - (a) any representations considered in accordance with subsection (5), and
  - (b) any changes made to the proposals contained in the document laid before Parliament under subsection (2).
- (7) Nothing in this section applies to an order under section 62 which is made only for the purpose of amending an earlier order under that section –
  - (a) so as to extend the earlier order, or any provision of the earlier order, to a particular PTA or to PTAs of a particular description, or
  - (b) so that the earlier order, or any provision of the earlier order, ceases to apply to a particular PTA or to PTAs of a particular description.

## PART 5

### LOCAL AND LONDON CHARGING SCHEMES

#### *Involvement of Passenger Transport Authorities*

#### **64 Power of PTAs to make charging schemes**

- (1) Section 163 of the TA 2000 (charging schemes: preliminary) is amended as follows.
- (2) In subsection (3) (authorities by which charging schemes may be made) –
  - (a) after paragraph (b) insert –
    - “(bb) jointly by a Passenger Transport Authority and one or more eligible local traffic authorities (“a joint local-PTA charging scheme”),”;
  - (b) for “or” at the end of paragraph (c) substitute –
    - “(cc) jointly by a Passenger Transport Authority, one or more eligible local traffic authorities and one or more London traffic authorities (“a joint PTA-London charging scheme”), or”.
- (3) After subsection (4) insert –
  - “(4A) In this Part “eligible local traffic authority” means, in relation to any Passenger Transport Authority for a passenger transport area, a local traffic authority which is a council falling within subsection (4B) for –
    - (a) an area which lies within the Authority’s area,
    - (b) an area which adjoins the Authority’s area,
    - (c) an area which adjoins an area falling within paragraph (b).

- (4B) The councils are –
- (a) a county council in England,
  - (b) a council for a non-metropolitan district comprised in an area for which there is no county council,
  - (c) a metropolitan district council.”.

## **65 Local charging schemes to implement policies of PTAs**

- (1) Section 164 of the TA 2000 (local charging schemes) is amended as follows.
- (2) In subsection (2) –
- (a) after “A local charging scheme” insert “which has effect wholly outside a passenger transport area”;
  - (b) for “policies in the charging authority’s local transport plan” substitute “local transport policies of the charging authority”.
- (3) After subsection (2) insert –
- “(3) A local charging scheme which has effect wholly within a passenger transport area may only be made if it appears desirable for the purpose of directly or indirectly facilitating the achievement of local transport policies of –
- (a) the charging authority, and
  - (b) the Passenger Transport Authority for the passenger transport area.”.
- (4) After subsection (5) (inserted by section 71) insert –
- “(6) For the purposes of this section and sections 165 and 166 –
- (a) a charging scheme has effect wholly outside a passenger transport area if none of the roads in respect of which it is made is in such an area;
  - (b) any reference to a charging scheme which has effect wholly, or partly, within a passenger transport area is to be read accordingly.”.

## **66 Joint local charging schemes to implement policies of PTAs**

- (1) Section 165 of the TA 2000 (joint local charging schemes) is amended as follows.
- (2) In subsection (2) –
- (a) after “A joint local charging scheme” insert “which has effect wholly outside a passenger transport area”;
  - (b) for “policies in the charging authorities’ local transport plans” substitute “local transport policies of the charging authorities”.
- (3) After subsection (2) insert –
- “(3) A joint local charging scheme which has effect wholly or partly within a passenger transport area may only be made if it appears desirable for the purpose of directly or indirectly facilitating the achievement of local transport policies of –
- (a) the charging authorities, and

- (b) the Passenger Transport Authority for the passenger transport area.”.
- (4) After subsection (5) (inserted by section 71) insert –
  - “(6) Section 164(6) has effect for the purposes of this section.”.

#### 67 Joint local-PTA charging schemes

After section 165 of the TA 2000 (joint local charging schemes) insert –

##### “165A Joint local-PTA charging schemes

- (1) A joint local-PTA charging scheme may only be made –
  - (a) in respect of roads for which any of the charging authorities are the traffic authority, and
  - (b) if at least one of the roads in respect of which it is made is within the passenger transport area of the Passenger Transport Authority.
- (2) A joint local-PTA charging scheme may only be made if it appears desirable for the purpose of directly or indirectly facilitating the achievement of local transport policies of the charging authorities.
- (3) In deciding whether to make a joint local-PTA charging scheme, the charging authorities must have regard to the likely effects of the scheme on the level of the emissions from the vehicles mentioned in subsection (4) of any substance which contributes to climate change or atmospheric pollution.
- (4) The vehicles are motor vehicles using –
  - (a) roads in the combined area of the charging authorities;
  - (b) roads in the area of any local traffic authority which adjoins that combined area.”.

#### 68 Joint local-London charging schemes to implement policies of PTAs

- (1) Section 166 of the TA 2000 (joint local-London charging schemes) is amended as follows.
- (2) In subsection (2) –
  - (a) after “A joint local-London charging scheme” insert “which has effect wholly outside a passenger transport area”;
  - (b) for “policies in the local transport plan” substitute “local transport policies”;
  - (c) omit “the local transport plans of”.
- (3) After subsection (2) insert –
  - “(3) A joint local-London charging scheme which has effect partly within a passenger transport area may only be made if it appears desirable for the purpose of directly or indirectly facilitating the achievement of –
    - (a) local transport policies of the non-metropolitan local traffic authority, or the non-metropolitan local traffic authorities, by which the scheme is made,
    - (b) local transport policies of the Passenger Transport Authority for the passenger transport area, and

- (c) policies and proposals set out in the transport strategy prepared and published by the Mayor of London under section 142 of the Greater London Authority Act 1999.”
- (4) After subsection (6) (inserted by clause 71) insert—
  - “(7) Section 164(6) has effect for the purposes of this section.”.

## 69 Joint PTA-London charging schemes

After section 166 of the TA 2000 (joint local-London charging schemes) insert—

### “166A Joint PTA-London charging schemes

- (1) A joint PTA-London charging scheme may only be made—
  - (a) in respect of roads falling within subsection (2), and
  - (b) if at least one of the roads in respect of which it is made is within the passenger transport area of the Passenger Transport Authority.
- (2) The roads are—
  - (a) roads for which the eligible local traffic authority, or any of the eligible local traffic authorities, by which the scheme is made are the traffic authority, and
  - (b) roads in respect of which the London traffic authority, or any of the London traffic authorities, by which the scheme is made may impose charges by a scheme under Schedule 23 to the Greater London Authority Act 1999 without the consent of the Secretary of State.
- (3) A joint PTA-London charging scheme may only be made if it appears desirable for the purpose of directly or indirectly facilitating the achievement of—
  - (a) local transport policies of the eligible local traffic authority, or the eligible local traffic authorities, by which the scheme is made,
  - (b) local transport policies of the Passenger Transport Authority by which the scheme is made, and
  - (c) policies and proposals set out in the transport strategy prepared and published by the Mayor of London under section 142 of the Greater London Authority Act 1999.
- (4) In deciding whether to make a joint PTA-London charging scheme, the charging authorities must have regard to the likely effects of the scheme on the level of the emissions from the vehicles mentioned in subsection (5) of any substance which contributes to climate change or atmospheric pollution.
- (5) The vehicles are motor vehicles using—
  - (a) roads in the combined area of the charging authorities;
  - (b) roads in the area of any local traffic authority which adjoins that combined area.
- (6) For the purposes of subsection (5) Transport for London’s area is Greater London.”.

**70 Consequential amendments**

Schedule 4 (further amendments relating to the powers of Passenger Transport Authorities in respect of local charging schemes) has effect.

*Miscellaneous amendments***71 Environmental effects of local charging schemes**

- (1) In section 164 of the TA 2000 (local charging schemes) after subsection (3) (inserted by section 65) insert—
  - “(4) In deciding whether to make a local charging scheme, the charging authority must have regard to the likely effects of the scheme on the level of the emissions from the vehicles mentioned in subsection (5) of any substance which contributes to climate change or atmospheric pollution.
  - (5) The vehicles are motor vehicles using—
    - (a) roads in the area of the charging authority;
    - (b) roads in the area of any local traffic authority which adjoins that area.”.
- (2) In section 165 of the TA 2000 (joint local charging schemes) after subsection (3) (inserted by section 66) insert—
  - “(4) In deciding whether to make a joint local charging scheme, the charging authorities must have regard to the likely effects of the scheme on the level of the emissions from the vehicles mentioned in subsection (5) of any substance which contributes to climate change or atmospheric pollution.
  - (5) The vehicles are motor vehicles using—
    - (a) roads in the combined area of the charging authorities;
    - (b) roads in the area of any local traffic authority which adjoins that combined area.”.
- (3) In section 166 of the TA 2000 (joint local-London charging schemes) after subsection (3) (inserted by section 68) insert—
  - “(4) In deciding whether to make a joint local-London charging scheme, the charging authorities must have regard to the likely effects of the scheme on the level of the emissions from the vehicles mentioned in subsection (5) of any substance which contributes to climate change or atmospheric pollution.
  - (5) The vehicles are motor vehicles using—
    - (a) roads in the combined area of the charging authorities;
    - (b) roads in the area of any local traffic authority which adjoins that combined area.
  - (6) For the purposes of subsection (5) Transport for London’s area is Greater London.”.
- (4) In section 198 of the TA 2000 (interpretation of Part 3), after subsection (3)

insert—

- “(4) For the purposes of this Part—
- (a) “climate change” means changes in climate which are, or which might reasonably be thought to be, the result of human activity altering the composition of the global atmosphere and which are in addition to natural climate variability; and
  - (b) “changes in climate” includes a reference to changes in climate which are reasonably expected, or might reasonably be expected, to happen or which are reasonably thought to be happening or to have recently happened.”.

## **72 Abolition of requirement for confirmation of English schemes**

- (1) Section 169 of the TA 2000 (confirmation of charging schemes) is amended as follows.
- (2) In subsection (1)—
  - (a) after “A charging scheme under this Part” insert “which relates wholly or partly to Wales”;
  - (b) for “the appropriate national authority” substitute “the Welsh Ministers”.
- (3) In subsection (2) for “the appropriate national authority” substitute “the Welsh Ministers”.
- (4) Omit subsection (5).

## **73 Abolition of power to require consultation or inquiries for English schemes**

- (1) Section 170 of the TA 2000 (charging schemes: consultation and inquiries) is amended as follows.
- (2) In subsection (3)—
  - (a) for “The appropriate national authority” substitute “The Welsh Ministers”;
  - (b) in paragraph (a) after “a charging scheme under this Part” insert “which relates wholly or partly to Wales”.
- (3) In subsection (4)—
  - (a) for “The appropriate national authority” substitute “The Welsh Ministers”;
  - (b) in paragraph (a) after “a charging scheme under this Part” insert “which relates wholly or partly to Wales”.
- (4) Omit subsection (5)(b) and the word “and” preceding it.

## **74 Charges**

- (1) In section 171(5) of the TA 2000 (different charges for different cases) after paragraph (e) insert “, and
  - (f) different methods or means of recording, administering, collecting or paying the charge.”.
- (2) In Schedule 23 to the GLA Act 1999 (road user charging) in paragraph 10(4) (the charges)—



- (a) after “different charges (which may be no charge) for” insert “different cases, including (in particular)”;
- (b) after paragraph (e) insert –
  - “(f) different methods or means of recording, administering, collecting or paying the charge.”.

## 75 Manner of payment of charges

- (1) In section 172 of the TA 2000 (charging schemes: exemptions etc), after subsection (2) insert –
  - “(2A) The appropriate national authority may by regulations –
    - (a) make provision requiring charging schemes under this Part to provide that in specified circumstances –
      - (i) persons of a specified description may pay, and
      - (ii) where those persons so choose, the charging authorities must collect,
 the charges imposed by such schemes in a specified manner;
    - (b) make provision for or in connection with the arrangements to be made by charging authorities with any person for the purpose of enabling charges to be paid, and collected, as mentioned in paragraph (a).
  - (2B) In subsection (2A) “specified” means specified in the regulations.”.
- (2) In consequence of the amendment made by subsection (1), the heading to section 172 becomes “Charging schemes: supplementary provision as to contents”.
- (3) In Schedule 23 to the GLA Act 1999 (road user charging) after paragraph 10 insert –

### *“Manner of payment of charges*

- 10A (1) Regulations may –
  - (a) make provision requiring a charging scheme to provide that in specified circumstances –
    - (i) persons of a specified description may pay, and
    - (ii) where those persons so choose, the charging authorities must collect,
 the charges imposed by the scheme in a specified manner;
  - (b) make provision for or in connection with the arrangements to be made by the charging authority with any person for the purpose of enabling charges to be paid, and collected, as mentioned in paragraph (a).
- (2) In sub-paragraph (1) “specified” means specified in the regulations.”.

## 76 Interference with functioning of equipment

- (1) In section 173 of the TA 2000 (penalty charges), in subsection (5)(a) after “interferes with any equipment” insert “, or with the functioning of any equipment,”.
- (2) In section 174 of the TA 2000 (examination, entry, search and seizure) –



- (a) in subsection (1)(b) for the words from “or has been interfered with” to the end of the paragraph substitute –
    - “(bb) whether any such equipment, or the functioning of any such equipment, has been interfered with with intent to avoid payment of a charge, or to avoid any person being identified as having failed to pay a charge, or”;
  - (b) in subsection (2)(a) after “has been interfered with” insert “, or the functioning of any such equipment has been interfered with,”;
  - (c) in subsection (2)(a) and (b) after “to avoid payment of, or” insert “to avoid any person”.
- (3) Schedule 23 to the GLA Act 1999 (road user charging) is amended as follows.
- (4) In paragraph 25(1)(a) (offences) after “interferes with any equipment” insert “, or with the functioning of any equipment,”.
- (5) In paragraph 26 (examination of motor vehicles etc) –
- (a) in sub-paragraphs (1)(b)(iii) and (2)(a) and (b) after “to avoid payment of, or” insert “to avoid any person”;
  - (b) after sub-paragraph (2) insert –
    - “(2A) The references in sub-paragraphs (1)(b)(iii) and (2)(a) to interfering with equipment include references to interfering with the functioning of it.”.

## 77 Use of equipment for charging schemes

- (1) Section 176 of the TA 2000 (equipment etc) is amended as follows.
- (2) In subsection (2) –
- (a) the words from “approve standards for equipment” to the end of the subsection become paragraph (a) of that subsection;
  - (b) after paragraph (a) insert “, or
    - (b) regulate the manner in which such equipment is used.”.
- (3) In subsection (3) –
- (a) the words from “installed for or in connection with” to the end of the subsection become paragraph (a) of that subsection;
  - (b) for “subsection (2)” substitute “subsection (2)(a)”;
  - (c) after paragraph (a) insert –
    - “(b) used for or in connection with the operation of such a scheme otherwise than in accordance with regulations under subsection (2)(b).”.
- (4) In Schedule 23 to the GLA Act 1999 (road user charging) paragraph 29 (approval of equipment) is amended as follows.
- (5) In sub-paragraph (1) –
- (a) the words from “the equipment” to the end of the sub-paragraph become paragraph (a);
  - (b) after paragraph (a) insert “, or
    - (b) the equipment is used in accordance with directions given by the Authority.”.

- (6) After sub-paragraph (3) insert –

“(3A) Where the Secretary of State considers that –

- (a) directions under sub-paragraph (1)(b) above regarding the use of equipment in connection with a charging scheme are incompatible with regulations under section 176(2)(b) of the Transport Act 2000, and
  - (b) the incompatibility is detrimental to the interests of persons resident in England outside Greater London,
- he may give notice of that fact to the Authority.

(3B) Where the Secretary of State has given notice under sub-paragraph (3A) above to the Authority, the equipment in question may no longer be used in connection with a charging scheme except with the authorisation of the Secretary of State.”.

- (7) In each of sub-paragraphs (4) and (5) after “sub-paragraph (3)” insert “or (3B)”.
- (8) In consequence of the amendments made by subsections (5) to (7), the heading preceding paragraph 29 becomes “Approval of equipment and directions for use”.

## 78 Power of national authority to require information from charging authorities

- (1) After section 177 of the TA 2000 insert –

### “177A Power to require information

- (1) The appropriate national authority may direct a local traffic authority or Passenger Transport Authority to provide it, within a specified period, with specified information connected with any aspect of the performance or proposed performance of their functions under this Chapter.
  - (2) The information that may be specified in such a direction must be information which the authority have in their possession or can reasonably be expected to acquire.
  - (3) A direction under this section may be given to two or more authorities or to authorities of a description specified in the direction.”.
- (2) In Schedule 23 to the GLA Act 1999 (road user charging) after paragraph 34A (information) insert –

### *“Power to require information*

34B (1) The Secretary of State may direct –

- (a) Transport for London,
- (b) any London borough council, or
- (c) the Authority,

to provide the Secretary of State, within a specified period, with specified information connected with any aspect of the performance or proposed performance of their functions under this Schedule.

- (2) The information that may be specified in such a direction must be information which the authority have in their possession or can reasonably be expected to acquire.

- (3) A direction under this section may be given to two or more of the bodies mentioned in sub-paragraph (1) or to such of those bodies as are specified in the direction.”.

## **79 Information: England and Wales**

- (1) Section 194 of the TA 2000 (information) is amended as follows.
- (2) In subsection (1) for the words from “the charging authority or licensing authority” to the end of the subsection substitute “a traffic authority or Passenger Transport Authority for or in connection with the performance or proposed performance of any of their functions under this Part or with respect to a relevant scheme or proposed relevant scheme”.
- (3) For subsection (2) substitute –
  - “(2) Information obtained by a traffic authority or Passenger Transport Authority for or in connection with any of their functions other than functions under this Part may be used by them for or in connection with the performance or proposed performance of any of their functions under this Part or with respect to a relevant scheme or proposed relevant scheme.”.
- (4) In subsection (3) (which provides for the disclosure of information and refers to the charging scheme) for “the” in the second place where it occurs substitute “a”.
- (5) After subsection (4) insert –
  - “(5) The Secretary of State or the Welsh Ministers may charge a reasonable fee in respect of the cost of supplying information under subsection (1) or (3).
  - (6) In this section “relevant scheme” means a charging scheme or licensing scheme under this Part.”.
- (6) In Schedule 23 to the GLA Act 1999 (road user charging) paragraph 34A (information) is amended as follows.
- (7) In sub-paragraph (1) for the words from “a charging authority” to the end of the sub-paragraph substitute “Transport for London or a London borough council for or in connection with the performance or proposed performance of any of their functions under this Schedule or with respect to a charging scheme or proposed charging scheme”.
- (8) For sub-paragraph (2) substitute –
  - “(2) Information obtained by Transport for London or a London borough council for or in connection with their functions other than their functions under this Schedule may be used by them for or in connection with the performance or proposed performance of any of their functions under this Schedule or with respect to a charging scheme or proposed charging scheme.”.
- (9) After sub-paragraph (4) insert –
  - “(5) The Secretary of State may charge a reasonable fee in respect of the cost of supplying information under sub-paragraph (1) or (3).”.

**80 Information: Scotland**

The Secretary of State may charge a reasonable fee in respect of the cost of supplying information under subsection (1) or (3) of section 63 of the Transport (Scotland) Act 2001 (2001 asp 2).

**81 London charging schemes: 10 year plan for share**

In Schedule 23 to the GLA Act 1999 (road user charging) paragraphs 19 to 24 (which require the preparation of general plans as to how proceeds of charging schemes are to be applied during a 10 year period and of programmes every four years for applying those proceeds) shall cease to have effect.

**82 Other amendments relating to schemes under Part 3 of TA 2000**

Schedule 5 (amendments of the financial provisions relating to road user charging and workplace parking levy schemes) has effect.

**PART 6**

## SUPPLEMENTARY PROVISIONS

**83 Financial provisions**

*There shall be paid out of money provided by Parliament –*

- (a) *any expenditure incurred by a Minister of the Crown or government department under or by virtue of this Act, and*
- (b) *any increase attributable to this Act in the sums payable out of money so provided under any other Act.*

**84 Repeals**

Schedule 6 contains repeals.

**85 Interpretation**

In this Act –

- “the PPVA 1981” means the Public Passenger Vehicles Act 1981 (c. 14);
- “the TA 1985” means the Transport Act 1985 (c. 67);
- “the GLA Act 1999” means the Greater London Authority Act 1999 (c. 29);
- “the TA 2000” means the Transport Act 2000 (c. 38).

**86 Short title, commencement and extent**

- (1) This Act may be cited as the Local Transport Act 2007.
- (2) Subject to subsections (3) and (4), this Act extends to England and Wales only.
- (3) The following provisions of this Act also extend to Scotland –
  - (a) section 1;
  - (b) sections 27 to 30;
  - (c) section 34(1) and (2);
  - (d) section 80;

- (e) sections 83 and 85 and this section;
  - (f) the repeals in Part 2 of Schedule 6 relating to sections 19 to 23 of the TA 1985, and section 84 so far as relating to those repeals.
- (4) The amendments made by Part 4 of this Act, and the repeals in Part 3 of Schedule 6, have the same extent as the enactments to which they relate.
- (5) The following provisions of this Act come into force on the day on which this Act is passed –
- (a) this Part, other than section 84 and Schedule 6,
  - (b) any power under or by virtue of this Act to make regulations or an order.
- (6) Subject to subsection (7), the other provisions of this Act come into force on an appointed day.
- (7) Any repeal in Schedule 6 (and section 84 so far as relating to the repeal) comes into force in the same way as the provisions of this Act to which the repeal relates.
- (8) In this section “appointed day” means such day or days as the Secretary of State may by order made by statutory instrument appoint.
- (9) An order under subsection (8) –
- (a) may appoint different days for different purposes;
  - (b) may make incidental, consequential, supplemental or transitional provision or savings.

## SCHEDULES

## SCHEDULE 1

Section 2

## REFERENCES TO LOCAL TRANSPORT PLANS

1 The TA 2000 is amended as follows.

*Joint and through ticketing schemes*

2 (1) Section 135 is amended as follows.

(2) In subsection (1) for paragraph (b) substitute –

“(b) would contribute to the implementation of their local transport policies.”.

*Information about bus services*

3 (1) Section 139 is amended as follows.

(2) In subsection (1) for “local transport plan” substitute “local transport policies”.

*Financial provisions relating to road user charging and workplace parking levy*

4 (1) Schedule 12 is amended as follows.

(2) In paragraph 8 (application of proceeds) –

(a) in sub-paragraph (2)(a) for “policies in the authority’s local transport plan” substitute “local transport policies of the authority”;

(b) in sub-paragraph (4)(a) for “any policies in its local transport plan” substitute “any of its local transport policies”.

## SCHEDULE 2

Section 24

## COMPETITION TEST: AMENDMENTS OF SCHEDULE 10 TO THE TRANSPORT ACT 2000

1 Schedule 10 to the TA 2000 (competition test for exercise of bus functions) is amended as follows.

*Test for the exercise of functions by local authorities*

2 For the italic heading preceding paragraph 1 substitute—

“PART 1

TEST FOR EXERCISE OF BUS FUNCTIONS BY LOCAL AUTHORITIES

*Functions to which this Part of this Schedule applies”.*

3 (1) Paragraph 1 (functions to which Schedule 10 applies) is amended as follows.

(2) In sub-paragraph (1) after “The functions to which” insert “this Part of”.

(3) In sub-paragraph (2)—

(a) after “For the purposes of” insert “this Part of”;

(b) after “a function to which” insert “this Part of”.

4 In paragraph 2(1) (competition test)—

(a) after “For the purposes of” insert “this Part of”;

(b) after “a function to which” insert “this Part of”.

5 In paragraph 3(1) (applications to OFT) after “a function to which” insert “this Part of”.

*Test for agreements, decisions and practices by undertakings*

6 After paragraph 4 insert—

“PART 2

TEST FOR AGREEMENTS, DECISIONS AND PRACTICES BY UNDERTAKINGS

*Interpretation*

4A (1) For the purposes of this Schedule—

(a) a voluntary multilateral agreement (a “VMA”) is a voluntary partnership agreement (within the meaning given by section 153) to which two or more operators of local services are parties;

(b) a voluntary bilateral agreement (a “VBA”) is a voluntary partnership agreement (within the meaning given by that section) to which only one operator of local services is a party;

(c) a relevant agreement, in relation to an agreement, decision or concerted practice falling within sub-paragraph (4) of paragraph 4B, is a VMA or VBA mentioned in paragraph (a) of that sub-paragraph.

(2) In this Schedule, a reference to the area of an authority is—

(a) in relation to a VMA or VBA, a reference to the area of a local transport authority which is a party to the agreement;

(b) in relation to an agreement, decision or concerted practice falling within sub-paragraph (4) of paragraph 4B, a



reference to the area of a local authority which is a party to a relevant agreement.

*Agreements, decisions and practices to which this Part of this Schedule applies*

- 4B (1) This Part of this Schedule applies to –
- (a) VMAs falling within sub-paragraph (2),
  - (b) VBAs falling within sub-paragraph (3), and
  - (c) agreements between undertakings, decisions by associations of undertakings and concerted practices falling within sub-paragraph (4).
- (2) A VMA falls within this sub-paragraph if, taken on its own or together with one or more other VMAs, it has as its object or effect the prevention, restriction or distortion of competition in the area of the authority, or the combined area of the authorities.
- (3) A VBA falls within this sub-paragraph if, taken together with one or more other VBAs, it has as its object or effect the prevention, restriction or distortion of competition in the area of the authority, or the combined area of the authorities.
- (4) An agreement between undertakings, decision by an association of undertakings or concerted practice falls within this sub-paragraph if –
- (a) it is made, taken or engaged in in pursuance of, or in connection with, one or more VMAs or two or more VBAs, and
  - (b) it has as its object or effect the prevention, restriction or distortion of competition in the area of the authority, or the combined area of the authorities.

*Competition test*

- 4C (1) For the purposes of this Part of this Schedule a VMA or VBA to which this Part of this Schedule applies meets the competition test if –
- (a) it contributes to the attainment of one or more of the objectives specified in sub-paragraph (3),
  - (b) it does not impose on the undertakings concerned restrictions which are not indispensable to the attainment of those objectives, and
  - (c) it does not afford the undertakings concerned the possibility of eliminating competition in respect of a substantial part of the services in question.
- (2) For the purposes of this Part of this Schedule an agreement, decision or concerted practice to which this Part of this Schedule applies meets the competition test if –
- (a) the relevant agreement contributes, or the relevant agreements contribute, to the attainment of one or more of the objectives specified in sub-paragraph (3),
  - (b) the agreement, decision or practice does not impose on the undertakings concerned restrictions which are not indispensable to the attainment of those objectives, and

- (c) the agreement, decision or practice does not afford the undertakings concerned the possibility of eliminating competition in respect of a substantial part of the services in question.
- (3) The objectives referred to in sub-paragraphs (1) and (2) are—
  - (a) securing improvements in the quality of vehicles or facilities used for or in connection with the provision of local services,
  - (b) securing other improvements in local services of substantial benefit to users of local services, and
  - (c) reducing or limiting traffic congestion, noise or air pollution.

*Governing principles*

- 4D Section 60 of the Competition Act 1998 applies to any question arising in connection with this Part of this Schedule as it applies to any question arising in connection with Part 1 of that Act.

*Disapplication of Chapter 1 of the Competition Act 1998*

- 4E (1) The Chapter 1 prohibition does not apply to a VMA or VBA, or an agreement, decision or concerted practice, to which this Part of this Schedule applies.
- (2) The Chapter 1 prohibition is the prohibition imposed by section 2(1) of the Competition Act 1998.”.

*Investigations and enforcement*

- 7 Before the italic heading preceding paragraph 5 insert—

“PART 3

INVESTIGATIONS AND ENFORCEMENT”.

- 8 For paragraph 5 (investigations by OFT) substitute—

- “5 The OFT may conduct an investigation if at any time it considers that—
- (a) the exercise or proposed exercise of a function to which Part 1 of this Schedule applies may not meet the competition test in paragraph 2;
  - (b) a VMA or VBA, or an agreement, decision or concerted practice, to which Part 2 of this Schedule applies may not meet the competition test in paragraph 4C.”.

*Schedule heading*

- 9 In consequence of the amendments made by this Schedule, the heading to

Schedule 10 becomes –

“COMPETITION TEST: FUNCTIONS AND AGREEMENTS RELATING TO BUSES”.

### SCHEDULE 3

Section 38

#### CHANGE OF NAME OF PTAS: CONSEQUENTIAL AMENDMENTS

*Transport Act 1968 (c. 73)*

- 1 (1) The Transport Act 1968 is amended as follows.
  - (2) In section 9(1)(b)(i) (Passenger Transport Authorities for passenger transport areas) for “the metropolitan county passenger transport authority” substitute “the Passenger Transport Authority”.
  - (3) In section 56 (assistance towards capital expenditure on public transport facilities) for subsection (6)(bb) substitute –
    - “(bb) a Passenger Transport Authority for a passenger transport area in England;”.

*Local Government Act 1972 (c. 70)*

- 2 (1) The Local Government Act 1972 is amended as follows.
  - (2) In section 236(1) (procedure etc for byelaws) for “or a metropolitan county passenger transport authority” substitute “or a Passenger Transport Authority for a passenger transport area in England”.
  - (3) In section 238 (evidence of byelaws) for “or a metropolitan county passenger transport authority” substitute “or a Passenger Transport Authority for a passenger transport area in England”.

*Transport Act 1983 (c. 10)*

- 3 (1) The Transport Act 1983 is amended as follows.
  - (2) In section 1 (interpretation of Part 1 of that Act) in the definition of “Authority” for “the metropolitan county passenger transport authority” substitute “the Passenger Transport Authority”.

*Rates Act 1984 (c. 33)*

- 4 (1) The Rates Act 1984 is amended as follows.
  - (2) In section 2(6) (authorities which may be designated for the purposes of section 1 of that Act) for paragraph (i) substitute –
    - “(i) Passenger Transport Authorities for passenger transport areas in England.”.

*Local Government Act 1985 (c. 51)*

- 5 (1) The Local Government Act 1985 is amended as follows.
  - (2) In section 28 (metropolitan county passenger transport authorities) –

- (a) in subsection (2), for “metropolitan county passenger transport authorities” substitute “Passenger Transport Authorities”,
  - (b) in subsection (3), for “metropolitan county passenger transport authority” substitute “Passenger Transport Authority established under this section”,
  - (c) in subsection (4), for “metropolitan county passenger transport authority” substitute “Passenger Transport Authority established under this section”.
- (3) In section 35(3) (disqualification of members of PTE etc) for “the metropolitan county passenger transport authority” substitute “Passenger Transport Authority”.

*Transport Act 1985 (c. 67)*

- 6 (1) The Transport Act 1985 is amended as follows.
- (2) In section 93(8)(b)(i) (meaning of “local authority” for the purposes of the section) for “a metropolitan county passenger transport authority” substitute “Passenger Transport Authority for a passenger transport area in England”.

*Airports Act 1986 (c. 31)*

- 7 (1) The Airports Act 1986 is amended as follows.
- (2) In section 13(7) (application of section 13 to passenger transport authorities) for “metropolitan county passenger transport authority” substitute “Passenger Transport Authority for a passenger transport area in England”.
- (3) In section 57(2) (airports excluded from scope of Part 5 of that Act) in paragraph (b) –
- (a) for “metropolitan county passenger transport authority” substitute “Passenger Transport Authority for a passenger transport area in England”;
  - (b) for “an authority” substitute “an Authority”.

*Local Government Act 1988 (c. 9)*

- 8 (1) The Local Government Act 1988 is amended as follows.
- (2) In Schedule 2 (public authorities to which section 17 of that Act applies) for “A metropolitan county passenger transport authority.” substitute “A Passenger Transport Authority for a passenger transport area in England.”.

*Local Government Finance Act 1988 (c. 41)*

- 9 (1) The Local Government Finance Act 1988 is amended as follows.
- (2) In section 88B(9) (relevant authorities for the purposes of special grants) for paragraph (b) substitute –
- “(b) a Passenger Transport Authority for a passenger transport area in England.”.
- (3) In section 111(2) (relevant authorities for the purposes of Part 8 of that Act)

for paragraph (i) substitute –

- “(i) a Passenger Transport Authority for a passenger transport area in England;”.

*Local Government and Housing Act 1989 (c. 42)*

- 10 (1) The Local Government and Housing Act is amended as follows.
- (2) In section 155 (emergency financial assistance to local authorities), in subsection (4)(g) for “metropolitan county passenger transport authority” substitute “Passenger Transport Authority”.

*Railways Act 1993 (c. 43)*

- 11 (1) The Railways Act 1993 is amended as follows.
- (2) In section 25(1) (public sector operators not to be franchisees) in paragraphs (c) and (d) for “metropolitan county passenger transport authority” substitute “Passenger Transport Authority for a passenger transport area in England”.
- (3) In section 149(5) (service of documents), in the definition of “local authority”, for “metropolitan county passenger transport authority” substitute “Passenger Transport Authority for a passenger transport area in England”.

*Local Government Act 1999 (c. 27)*

- 12 (1) The Local Government Act 1999 is amended as follows.
- (2) In section 1(1) (best value authorities for the purposes of Part 1 of that Act) for paragraph (h) substitute –
- “(h) a Passenger Transport Authority for a passenger transport area in England;”.

*Greater London Authority Act 1999 (c. 29)*

- 13 (1) The Greater London Authority Act 1999 is amended as follows.
- (2) In section 211(1) (public sector operators for the purposes of Chapter 7 of Part 4 of that Act) in paragraphs (c) and (d) for “metropolitan county passenger transport authority” substitute “Passenger Transport Authority for a passenger transport area in England”.

*Police Reform Act 2002 (c. 30)*

- 14 (1) The Police Reform Act 2002 is amended as follows.
- (2) In Schedule 4 (police civilians), in paragraph 2 (powers of community support officers to detain, etc), for sub-paragraph (6E)(d) substitute –
- “(d) a Passenger Transport Authority for a passenger transport area in England;”.

SCHEDULE 4

Section 70

PTAS AND CHARGING SCHEMES: MINOR AND CONSEQUENTIAL AMENDMENTS

*Introductory*

- 1 Part 3 of the TA 2000 (road user charging and workplace parking levy) is amended as follows.

*Preliminary: power to make schemes does not limit other powers*

- 2 In section 163(6) after “joint local-London charging schemes” insert “and joint PTA-London charging schemes”.

*Conditions for making trunk road schemes*

- 3 In section 167(2)(b) after “a local traffic authority” insert “, a Passenger Transport Authority”.

*Charging schemes to be made by order*

- 4 (1) Section 168 is amended as follows.
  - (2) In subsection (2) –
    - (a) after “a local traffic authority” insert “, a Passenger Transport Authority”;
    - (b) after “the local traffic authority” insert “or the Passenger Transport Authority”.
  - (3) In subsection (4) after “joint local-London charging schemes” insert “or joint PTA-London charging schemes”.

*Confirmation of charging schemes*

- 5 In section 169(3) after “joint local-London charging scheme” insert “or joint PTA-London charging scheme”.

*Consultation and inquiries*

- 6 (1) Section 170 is amended as follows.
  - (2) In subsection (5) after “joint local-London charging scheme” insert “or joint PTA-London charging scheme”.
  - (3) In subsection (7)(a) after “local traffic authority” insert “or Passenger Transport Authority”.

*Traffic signs*

- 7 In section 177(2) after “joint local-London charging scheme” insert “or joint PTA-London charging scheme”.

*Guidance*

- 8 (1) Section 193 is amended as follows.

- (2) In subsection (1) after “non-metropolitan local traffic authorities” insert “, Passenger Transport Authorities”.
- (3) In subsection (2) after “joint local-London charging schemes” insert “, joint PTA-London charging schemes”.

*Interpretation*

- 9 In section 198(1) insert each of the following definitions at the appropriate place—
  - ““eligible local traffic authority” has the meaning given by section 163(4A),”;
  - ““joint local-PTA charging scheme” shall be construed in accordance with section 163(3)(bb),”;
  - ““joint PTA-London charging scheme” shall be construed in accordance with section 163(3)(cc),”.

*Financial provisions*

- 10 Schedule 12 is amended as follows.
- 11 In paragraph 2(4) (net proceeds) after “local traffic authority” insert “or Passenger Transport Authority”.
- 12 (1) Paragraph 3 (apportionment) is amended as follows.
  - (2) In sub-paragraph (1)—
    - (a) for the word “or” at the end of paragraph (a) substitute—
      - “(aa) a joint local-PTA charging scheme,”;
    - (b) at the end of paragraph (b) insert “or
      - “(c) a joint PTA-London charging scheme,”.
  - (3) In sub-paragraph (2) after “local traffic authority” insert “or Passenger Transport Authority”.
- 13 (1) Paragraph 7 (accounts and funds) is amended as follows.
  - (2) In sub-paragraph (5)(c) after “London traffic authority,” insert “or a Passenger Transport Authority,”.
- 14 (1) Paragraph 8 (application of proceeds by non-metropolitan local traffic authorities) is amended as follows.
  - (2) In sub-paragraph (3) for the word “and” at the end of paragraph (a) substitute—
    - “(aa) Passenger Transport Authorities;”.
  - (3) In sub-paragraph (4) for the word “or” at the end of paragraph (a) substitute—
    - “(aa) by a Passenger Transport Authority for the purpose of directly or indirectly facilitating the achievement of any of its local transport policies, or”.



15 After paragraph 11 insert—

*“Application of proceeds by Passenger Transport Authorities*

- 11A (1) This paragraph applies to a Passenger Transport Authority’s share of the net proceeds of any relevant scheme.
- (2) The share of the net proceeds is available only—
- (a) for application by the Authority for the purpose of directly or indirectly facilitating the achievement of any of the Authority’s local transport policies, or
  - (b) for application by an authority falling within sub-paragraph (3) selected by the Authority in accordance with sub-paragraph (4).
- (3) The authorities which fall within this sub-paragraph are—
- (a) non-metropolitan local traffic authorities;
  - (b) London traffic authorities and the Greater London Authority.
- (4) A share of the net proceeds of a relevant scheme is applied in accordance with this sub-paragraph if it is applied—
- (a) by a non-metropolitan local traffic authority for the purpose of directly or indirectly facilitating the achievement of any of its local transport policies, or
  - (b) by a London traffic authority or the Greater London Authority in accordance with the transport strategy prepared and published under section 142 of the Greater London Authority Act 1999,
- in a way which will benefit the whole or any part of the passenger transport area of the Authority.
- 11B (1) A relevant scheme made by a Passenger Transport Authority must include—
- (a) a general plan relating to the application of its share of the net proceeds of the relevant scheme during the opening ten year period, and
  - (b) a detailed programme for the application of its share for the net proceeds of the relevant scheme during the opening five year period.
- (2) See paragraph 10(2) for the meaning of “the opening ten year period” and “the opening five year period”.
- 11C (1) If a relevant scheme made by a Passenger Transport Authority remains in force after the end of the opening five year period, the Authority shall, during every fifth financial year after the financial year in which the scheme comes into force, prepare a detailed programme for the application of its share of the net proceeds of the scheme during the next five years.
- (2) Any programme prepared in accordance with sub-paragraph (1) in relation to relevant scheme prevails over any conflicting provisions in the general plan included in the scheme pursuant to paragraph 11B(1)(a).

- (3) Except with the consent of the Secretary of State in any particular case, a Passenger Transport Authority may not apply its share of the net proceeds of a scheme for any purpose (other than making good any amount to its general fund) in any financial year beginning after the end of the opening five year period unless it is complying with sub-paragraph (1).”.

## SCHEDULE 5

Section 82

## AMENDMENTS OF SCHEDULE 12 TO THE TRANSPORT ACT 2000

- 1 Schedule 12 to the TA 2000 (financial provisions relating to road user charging and workplace charging schemes) is amended as follows.

*Application of proceeds by non-metropolitan local traffic authorities*

- 2 (1) Paragraph 8 is amended as follows.
- (2) In sub-paragraph (1) for “any early relevant scheme during the initial period of the scheme” substitute “any relevant scheme”.
- (3) Omit sub-paragraphs (5) to (7).

*Application of proceeds where paragraph 8 does not apply*

- 3 Omit paragraph 9.

*Plans and programmes for application of proceeds*

- 4 (1) Paragraph 10 is amended as follows.
- (2) In sub-paragraph (1)(b) for “the opening transport plan period” substitute “the opening five year period”.
- (3) For sub-paragraph (2)(b) substitute –
- “(b) “the opening five year period” means the period which begins with that date and ends with the fifth financial year that commences on or after that date.”.
- (4) In sub-paragraph (3) –
- (a) after “a scheme” insert “which relates to an area in Wales”;
- (b) for “the appropriate national authority” substitute “the Welsh Ministers”.

*Programme for application of proceeds after end of opening period*

- 5 (1) Paragraph 11 is amended as follows.
- (2) For sub-paragraph (1) substitute –
- “(1) If a relevant scheme made by one or more non-metropolitan local traffic authorities remains in force after the end of the opening five year period, the authority or each of the authorities shall, during every fifth financial year after the financial year in which the scheme comes into force, prepare a detailed programme for the

application of its share of the net proceeds of the scheme during the next five years.”.

- (3) In sub-paragraph (2) for “included in a local transport plan by virtue of sub-paragraph (1)” substitute “prepared in accordance with sub-paragraph (1)”.
- (4) In sub-paragraph (3) for “the opening plan period” substitute “the opening five year period”.

*Application of proceeds by Secretary of State and Welsh Ministers*

- 6 (1) Paragraph 13 is amended as follows.
  - (2) In sub-paragraph (1)(b) omit the words from “and comes into force” to “the commencement of this Schedule”.
  - (3) Omit sub-paragraph (2).
  - (4) In sub-paragraph (3) –
    - (a) for “Sub-paragraph (1)” substitute “Sub-paragraph (1)(a)”;
    - (b) after “a scheme” insert “made by virtue of section 167(2)(a)”.
  - (5) In sub-paragraph (5) –
    - (a) for “sub-paragraph (1)” substitute “sub-paragraph (1)(a)”;
    - (b) after “a trunk road charging scheme” insert “made by virtue of section 167(2)(a)”.

*Regulations and orders*

- 7 (1) In consequence of the amendments made by paragraphs 3 and 6(3), section 197 of the TA 2000 is amended as follows.
  - (2) In subsections (3) and (4)(b) (regulations not to be made without consent of Treasury and approval of Parliament) –
    - (a) omit “9(1) or”;
    - (b) for “13(2) or (5)” substitute “13(5)”.

SCHEDULE 6

Section 84

REPEALS

PART 1

REPEALS RELATING TO PART 2 OF THIS ACT

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Transport Act 2000 (c. 38)	In section 116(2), the word “and” at the end of paragraph (c). Section 124(10). In section 125(2), paragraph (c) and the word “and” preceding it. Section 129(4).
Enterprise Act 2002 (c. 40)	In Schedule 25, paragraph 44(12)(e).

## PART 2

## REPEALS RELATING TO PART 3 OF THIS ACT

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Transport Act 1985 (c. 67)	<p>Section 9(3), (4) and (7) to (9).            Section 19(3) and (7).            In section 20—</p> <ul style="list-style-type: none"> <li>(a) in subsection (2), the words “or body”,</li> <li>(b) in subsection (4), the words from “In addition to” to “section 19(7)(b) of this Act,” and the words “or other body” and “or that body”,</li> <li>(c) in subsection (5)(a), the words “or body”,</li> <li>(d) in subsection (7), paragraph (b) and the word “or” preceding it.</li> </ul> <p>In section 22(1), in paragraph (c) of the definition of “community bus service”, the words “but not more than sixteen”.</p> <p>Section 23(2)(a).            Section 75(3).            In section 79—</p> <ul style="list-style-type: none"> <li>(a) subsections (3) and (7),</li> <li>(b) in subsection (8), the words “, with the consent of the Secretary of State,”.</li> </ul>
Constitutional Reform Act 2005 (c. 4)	In Schedule 9, paragraph 42(2).

## PART 3

## REPEALS RELATING TO PART 4 OF THIS ACT

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Transport Act 1968 (c. 73)	In section 9(1) the words “Subject to any order under section 42(1)(c) of the Local Government Act 1985 (alteration or abolition of passenger transport areas, etc)”.
Local Government Act 1985 (c. 51)	<p>In section 42(1)—</p> <ul style="list-style-type: none"> <li>(a) the words “any of the following purposes”,</li> <li>(b) paragraph (c),</li> <li>(c) in paragraph (d) the words “whether or not an order is made for any of the foregoing purposes”.</li> </ul> <p>In section 42(3) the words “any passenger transport authority”.</p> <p>In Schedule 14, paragraph 31(2).</p>
Transport Act 1985 (c. 67)	Section 89(8)(c).

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Education Reform Act 1988 (c. 40)	In Schedule 12, paragraphs 45 and 46.
Transport Act 2000 (c. 38)	In section 108(1)(a) the words “facilities and services”. In section 110 – (a) in subsection (1) the words from “(or,” to “out)”, (b) subsection (4). In section 111(2) the words from “(except” to the end. In section 113 – (a) subsection (1), (b) in subsection (2) “, 109(4), 110(3)”, (c) subsection (3). Section 156. Section 162(6). Section 198(2).

PART 4

REPEALS RELATING TO PART 5 OF THIS ACT

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Greater London Authority Act (c. 29)	In Schedule 23, paragraphs 19 to 24.
Transport Act 2000 (c. 38)	In section 166(2)(a), the words “the local transport plans of”. Section 169(5). In section 170(5), paragraph (b) and the word “and” preceding it. In section 171(5), the word “and” at the end of paragraph (d). In section 197(3) and (4)(b), the words “9(1) or”. In Schedule 12 – (a) paragraph 8(5) to (7), (b) paragraph 9, (c) in paragraph 13(1)(b) the words from “and comes into force” to “the commencement of this Schedule”, (d) paragraph 13(2).





# Department for Transport

## Strengthening local delivery: The draft Local Transport Bill

### Volume 3: Explanatory notes

Presented to Parliament by the  
Secretary of State for Transport,  
by Command of Her Majesty  
May 2007

Cm 7043-III

£40.00  
Four volumes  
Not to be sold separately



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# **DRAFT LOCAL TRANSPORT BILL**

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## **EXPLANATORY NOTES**

### **INTRODUCTION**

1. These Explanatory Notes relate to the draft Local Transport Bill as published for consultation and pre-legislative scrutiny on 22 May 2007. They have been prepared by the Department for Transport in order to assist the reader of the draft Bill and to help inform debate on it. They do not form part of the draft Bill.
2. The notes need to be read in conjunction with the draft Bill. They are not, and are not meant to be, a comprehensive description of the draft 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 draft 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 are set out in the consultation document published as Volume 1 alongside the draft Bill and these Explanatory Notes.
4. The draft Bill contains provisions to amend the legal frameworks relating to:
  - the operation of local bus services;
  - the responsibilities of local authorities in relation to local transport;
  - the establishment and functions of Passenger Transport Authorities ("PTAs"); and
  - the establishment and operation of local road user charging schemes (commonly referred to as "local road pricing schemes").

### **Local bus services**

#### *The legal framework*

5. 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*

6. 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.

7. 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.

8. 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).

*Voluntary partnership agreements*

9. 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 draft Bill*

10. The draft Bill includes measures to:

- reform the 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; and
- amend a number of other legislative provisions that relate to local passenger transport.

- \* 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 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 governance***

11. At present, responsibility for setting overall strategies for transport services for a particular area in England (outside London) is the responsibility of the county council or unitary authority for that area.

12. However, in the metropolitan counties outside London (West Midlands, Greater Manchester, Merseyside, South Yorkshire, West Yorkshire and Tyne & Wear) these responsibilities are split. Metropolitan district councils have responsibility for the local road network. As a result of the Transport Act 1968 (“the TA 1968”) as amended, the metropolitan counties have been designated as “passenger transport areas” and a PTA has been established in relation to each of those areas. In each of these six metropolitan counties, the PTA has responsibility for planning and procuring public transport services. Across England (outside London) the Secretary of State, acting through the Highways Agency, has responsibility for the strategic road network.

13. Part 4 of the draft Bill provides for changes to be made to the arrangements under which the planning and provision of transport services in England are carried out at a local level, especially in the six former metropolitan county areas. It also includes provisions relating to the establishment of new passenger transport areas, and changes to the boundaries of existing areas.

### ***Local charging schemes***

14. 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.

- \* 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.

15. Provisions in the draft Bill allow PTAs to make a charging scheme jointly with local traffic authorities, and make a number of other miscellaneous amendments to the provisions of the GLA Act 1999 and the TA 2000.

## **OVERVIEW OF STRUCTURE**

16. The draft Bill is organised in six Parts and six Schedules.
17. *Part 1* contains some preliminary provisions, which establish a new statutory office of senior traffic commissioner and which define “local transport policies” for the purposes of Parts 2 and 3 of the TA 2000.
18. *Part 2* contains provisions relating to local bus services, amending in particular Part 2 of, and Schedule 10 to, the TA 2000.
19. *Part 3* contains a number of general provisions relating to passenger transport, amending various sections of the TA 1968, the TA 1985 and the TA 2000.
20. *Part 4* makes new provision relating to PTAs and other aspects of local transport governance, as well as amending various sections of Part 2 of the TA 2000.
21. *Part 5* 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.
22. *Part 6* contains supplementary provisions.
23. *Schedule 1* substitutes references to “local transport policies” (as defined by a new provision inserted by Part 1) in place of certain references in the TA 2000 to local transport plans or bus strategies, and makes other related amendments.
24. *Schedule 2* applies a modified form of the competition test in Schedule 10 to the TA 2000 to certain voluntary bus partnership agreements.
25. *Schedule 3* contains amendments to various enactments, consequential on clause 38, which provides that the metropolitan county passenger transport authorities established under the Local Government Act 1985 are to be known as Passenger Transport Authorities.
26. *Schedule 4* contains minor and consequential amendments to the TA 2000, relating to clauses in Part 5 that allow PTAs to make local charging schemes jointly with local traffic authorities.
27. *Schedule 5* amends Schedule 12 to the TA 2000, which contains financial provisions relating to charging schemes under Part 3 of that Act.
28. *Schedule 6* contains repeals relating to Parts 2 to 5 of the draft Bill.

## **TERRITORIAL EXTENT**

29. Provisions in the draft Bill extend to England and Wales only, with the exception of the following provisions which also extend, in whole or in part, to Scotland:
  - clause 1, which establishes the office of senior traffic commissioner and contains related provisions. Its application to Scotland is limited to matters which are not devolved;



- clauses 27 to 30, 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);
- subsections (1) and (2) of clause 34, which relates to subsidy to secure passenger transport services;
- clause 80, which provides a power for the Secretary of State to charge a reasonable fee for the provision of information under sections 63(1) and (3) of the Transport (Scotland) Act 2001 in relation to charging schemes in Scotland;
- clauses 83 (Financial provisions), 85 (Interpretation) and 86 (Short title, commencement and extent); and
- the repeals in Part 2 of Schedule 6 (Repeals) relating to sections 19 to 23 of the TA 1985, and clause 84 insofar as relating to those repeals.

30. The Sewel Convention does not apply to draft Bills.

\* The *Sewel Convention* states that Westminster will not normally legislate with regard to devolved matters in Scotland without the consent of the Scottish Parliament.

## **TERRITORIAL APPLICATION: WALES**

31. The draft 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.

32. 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***

<b>Clause(s)</b>	<b>Subject of clause</b>	<b>Effect on the powers of the Welsh Ministers</b>
Part 1: clause 1	Senior traffic commissioner	A requirement for the senior traffic commissioner to consult the Welsh Ministers before issuing directions or guidance to other traffic commissioners.
Part 2: clause 13	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.

*These notes refer to the Local Transport Bill  
as published in draft for consultation on 22 May 2007*

Part 2: clause 18	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.
Part 2: clause 21	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 2: clause 22	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 3: clause 35	Subsidy to secure passenger transport services in Wales	Extension of existing power for the Welsh Ministers to subsidise passenger transport services to cover standards of service.
Part 5: clause 75	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.
Part 5: clause 76	Interference with functioning of equipment	An extension to the existing power for the Welsh Ministers, by regulation, to make certain provisions relating to examination of, or entry into, a motor vehicle for certain purposes.
Part 5: clause 77	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 5: clause 78	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 5: clause 79	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 5: clause 82 and Schedule 5	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.
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33. Table 2 below summarises the provisions in the draft 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.

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

Clause(s)	Subject of clause	Effect on the powers of the Welsh Ministers
Part 2: clauses 9 to 12	Approval of quality contracts schemes, and related appeals	The clause preserves the existing provisions whereby: <ul style="list-style-type: none"> <li>● a scheme in Wales must be approved by the Welsh Ministers; and</li> <li>● there is no right of appeal to the Transport Tribunal in relation to the Welsh Ministers' decisions to approve or reject a scheme.</li> </ul>
Part 4: clauses 38 to 63	Passenger Transport Authorities etc.	There are no PTAs in Wales, and so the provisions do not have any application there.
Part 5: clauses 64 to 70	Involvement of Passenger Transport Authorities in charging schemes	There are no PTAs in Wales, and so the provisions do not have any application there.
Part 5: clause 72	Removal of requirement for Secretary of State confirmation of charging schemes in England	The clause preserves the existing provision that the scheme order relating to a proposed local charging scheme in Wales must be approved by the Welsh Ministers.

Part 5: clause 73	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 5: clause 82 and Schedule 5, paragraph 4	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.

### **APPLICATION: LONDON**

34. In relation to many of the matters covered in the draft Local Transport Bill, separate provisions operate in London under the GLA Act 1999. The following table lists the provisions in the draft Bill which have application in London.

***Table 3: Measures which have application in London***

<b>Clause</b>	<b>Subject of clause</b>
Part 1: clause 1	Senior traffic commissioner
Part 3: clause 26	Use of private hire vehicles to provide local services
Part 3: clauses 27 to 30	Vehicles used under permits issued under sections 19 and 22 of the TA 1985
Part 3: clause 31	Attachment of conditions to related licences (applies in London to a limited extent)
Part 5: clauses 64 and 67 to 69	Involvement of PTAs in charging schemes. These provisions cater for the possibility of a future PTA being established in the vicinity of London, and that PTA seeking to make a charging scheme jointly with one or more charging authorities in London
Part 5: clause 71	Environmental effects of joint local-London charging schemes
Part 5: clause 74	Charges
Part 5: clause 75	Manner of payment of charges
Part 5: clause 76	Interference with functioning of equipment
Part 5: clause 77	Use of equipment for charging schemes
Part 5: clause 78	Power of national authority to require information from charging authorities
Part 5: clause 79	Information: England and Wales
Part 5: clause 81	London charging schemes: 10 year plan for share

## **COMMENTARY**

### **PART 1 – PRELIMINARY**

#### **Clause 1: Senior traffic commissioner**

35. The Secretary of State has designated one of the traffic commissioners (appointed under section 4 of the PPVA 1981) as senior traffic commissioner. The post currently has no statutory basis and the post holder no statutory powers. Clause 1 inserts a new section 4A into the PPVA 1981 to provide for the appointment by the Secretary of State of a senior traffic commissioner.

36. The senior traffic commissioner is empowered to give such guidance and general directions to the traffic commissioners as he sees fit. The new section also empowers the Secretary of State to give guidance to the senior traffic commissioner on the exercise of his functions. The clause amends sections 4(4)(a) of the PPVA 1981 and 1(2) of the Goods Vehicles (Licensing of Operators) Act 1995, so as to remove the existing power for the Secretary of State to issue general directions to traffic commissioners. That is replaced by a requirement that traffic commissioners act under the directions of, and have regard to the guidance given by, the senior traffic commissioner.

37. The provisions extend to England, Wales and Scotland, but the power of the senior traffic commissioner to give guidance and general directions to a traffic commissioner in Scotland is limited to those functions of the traffic commissioner that relate to reserved matters within the meaning of the Scotland Act 1998.

38. The clause also includes a transitional provision to provide for the person designated as senior traffic commissioner prior to the commencement of the new statutory office to become the first holder of that office.

#### **Clause 2: Local transport policies**

39. This clause 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. That provision, as amended by clause 57 of the draft Bill, requires 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.”

40. There are a number of references to local transport plans in the TA 2000. But there are now a number of local authorities who are not required to produce such plans, as a result of the Local Authorities’ Plans and Strategies (Disapplication) (England) Order 2005 (SI 2005/157). Schedule 1, which is introduced by clause 2, therefore substitutes “local transport policies” in place of “local transport plans” in two places in Part 2 of the TA 2000, and in Schedule 12 to that Act.

41. This clause extends to England and Wales.

## **PART 2 – BUS SERVICES**

### ***Clauses 3 to 6: Quality partnership schemes***

42. Clauses 3 to 6 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 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 3: Quality partnership schemes**

43. *Clause 3* 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 (4)* is to amend subsection (6)(b) so that such requirements may explicitly be included in a quality partnership scheme. *Subsection (5)* inserts new subsections (6A) to (6D), the effect of which is to enable a scheme to include standards on fares, including setting a maximum fare, a minimum period between maximum fare increases and a process for agreeing the setting and revision of maximum fares. The effect of the amendment in *subsection (6)* 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.

### **Clauses 4 to 6: Provisions relating to phased implementation of schemes**

44. 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.

### ***Clauses 7 to 23: Quality contracts schemes***

45. These clauses amend 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.

46. 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 59 specifies that a bus strategy is no longer required for a passenger transport area.

47. 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.

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

### **Clause 7: Quality contracts schemes**

49. 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.

50. 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 authority must be satisfied that the scheme would 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 (6)*, to include a reference to reducing, arresting or reversing decline in the use of bus services.

- A 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). The effect would be to enable a scheme to be made for certain purposes not 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. In addition, not all local transport authorities in England are required to prepare bus strategies (or local transport plans), by virtue of the Local Authorities' Plans and Strategies (Disapplication) (England) Order 2005 (SI 2005/157), and under the provisions of Part 4 of this Bill, PTAs will be required to prepare Integrated Transport Strategies rather than local transport plans and bus strategies. However, all local transport authorities (including PTAs) 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 57). The requirement that a quality contracts scheme must contribute to the implementation of "local transport policies" therefore works in every case.

\* *Local transport policies* are defined in the new section 108(5) of the TA 2000, inserted by clause 2.

- A quality contracts scheme must also (as now) implement the policies in a way that is economic, efficient and effective. In addition, *subsection (7)* inserts a competition test into section 124 which requires any significant adverse effect on competition to be proportionate to the public interest benefits of the scheme.



### **Clause 8: Notice and consultation requirements**

51. 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 it is satisfied that the criteria set out in the new section 124(1) will be met, and a statement on funding.

### **Clause 9: Approval of proposed scheme**

52. 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 10 to 12, have no effect in respect of the procedure in Wales.

### **Clause 10: Approvals boards for England**

53. 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 (normally 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.

\* The *senior traffic commissioner* is established by clause 1, 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 11: Inquiries by approvals boards for England**

54. This clause inserts a new section 126B 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 12: Appeals relating to applications for approval: areas in England**

55. This clause inserts two new sections, 126C and 126D, 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 13: Making of scheme**

56. This clause contains amendments to section 127 of the TA 2000, many of which are consequential on preceding provisions of the draft 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 10 to 12 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 14 and 15). Under the existing provisions in the TA 2000, all parts of the scheme must come into operation on the same date.

#### **Clause 16: Extension of maximum period of quality contracts**

57. 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 17 is also the maximum duration of the scheme itself). Ten years is also the maximum duration specified for public service contracts for coach and bus services proposed by virtue of article 4.3 of a draft Regulation of the European Parliament and of the Council on public passenger transport services by rail and by road (Council Common Position of 11 December 2006, O.J. C70 E, 27.3.2007, p1).

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

#### **Clause 17: Continuation of scheme for further period**

58. 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.

59. 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 18 and 19).

60. 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 22: Guidance about quality contracts schemes**

61. 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 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 23: Power to make traffic regulation orders**

62. 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, or the Welsh Ministers, is 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, 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 24: Voluntary partnership agreements**

63. 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 modified form of the competition test to voluntary partnership agreements and related matters (as defined in the substituted section 153). *Subsection (2)* provides for the amendment of Schedule 10 to the TA 2000 by *Schedule 2* to the draft Bill.

64. *Schedule 2* adds new paragraphs to Schedule 10 to the TA 2000, which will form a new Part 2 of that Schedule. The new Part 2 applies a modified form of the existing competition test to certain voluntary partnership agreements, where the object or effect of those agreements is the restriction, prevention or distortion of competition in the provision of bus services.

65. 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, and which would have an effect on competition.

66. 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.

67. This clause extends to England and Wales.

### **PART 3 – GENERAL PROVISIONS RELATING TO PASSENGER TRANSPORT ETC**

#### **Clause 25: Transport Tribunal to decide appeals against traffic regulation conditions**

68. 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.

69. This clause extends to England and Wales.

#### **Clause 26: Use of private hire vehicles to provide local services**

70. This clause amends sections 12 and 13 of the TA 1985. These sections currently enable holders of a taxi licence to apply to the traffic commissioner for a special restricted Public Service Vehicle (“PSV”) operator’s licence (granted under section 12), entitling the operator to use taxis to run local bus services. The effect of the amendments is to extend this ability to the holders of private hire vehicle (“PHV”) licences, enabling them to use PHVs to provide local bus services. The amendments would allow PHVs operating in this way to pick up passengers spontaneously rather than having to be pre-booked through an operator.

71. The clause extends to England and Wales.

\* 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). 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) or section 48 of the Local Government (Miscellaneous Provisions) Act 1976 (in the rest of England and Wales). Private hire vehicles must be pre-booked.

#### ***Clauses 27 to 30: Vehicles used under permits***

72. 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.

73. Section 19 of the TA 1985 enables permits to be granted to educational, religious, social welfare and other bodies to operate services for members of those bodies without a PSV operator’s licence. Members of the general public cannot 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.

74. These clauses extend to England, Wales and Scotland.

**Clauses 27 to 29: Permits in relation to use of vehicles by educational and other bodies**

75. The effect of clause 27 is to remove the current restriction which prevents the use of vehicles with fewer than nine seats under a permit issued under section 19 of the TA 1985.

76. A further effect of the amendments is to simplify the system by requiring all future permits to be issued by the traffic commissioner for the area in which the vehicle has its operating centre. The existing provision in section 19(7) of the TA 1985 which enables “designated bodies” to grant such permits is repealed.

**Clause 30: Relaxation of rules relating to community bus services**

77. 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.

***Clauses 31 and 32: Services not operated as registered etc.***

78. 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 31: Attachment of conditions to related licences**

79. 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.

\* 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.

80. The amendments in *subsections (1) to (6)* of this clause would also enable a traffic commissioner to attach 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.

81. *Subsections (7) to (9)* amend subsections (5) and (6) of section 26 of the TA 1985 which allow a traffic commissioner to restrict a PSV operator to using the particular vehicles specified in a condition attached to that licence. 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 32: Powers of traffic commissioners where services not operated as registered**

82. 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.

83. The clause adds two new sections (27A and 27B) to the TA 1985 to give new powers to the traffic commissioners to investigate poor punctuality and recommend remedial measures from both operators and local traffic authorities. 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 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 33: Subsidy to secure passenger transport services in passenger transport areas**

84. This clause amends section 9A of the TA 1968, which sets out the general functions of Passenger Transport Authorities and Executives. Section 9A(4) empowers a Passenger Transport Executive ("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.

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

**Clause 34: Subsidy to secure passenger transport services in other areas**

86. This clause amends section 63 of the TA 1985 to empower authorities other than PTEs in the way described above under clause 33. It extends to England and Wales.

**Clause 35: Subsidy to secure passenger transport services in Wales**

87. 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 33 above.



**Clause 36: Extension of maximum length of subsidised services agreements**

88. 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 37: Removal of certain requirements for Secretary of State's consent**

89. This clause 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 (as defined in section 72 of the TA 1985) 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.

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

**PART 4 – PASSENGER TRANSPORT AUTHORITIES ETC.**

91. The provisions in this Part extend to England and Wales, but are expressed to have effect only in relation to areas in England.

***Chapter 1: Introductory***

**Clause 38: References to Passenger Transport Authority etc**

92. This clause provides that references to a “Passenger Transport Authority” (“PTA”), both in this draft Bill and in any other legislation, mean not only one of the six PTAs currently in existence in England but also any additional PTA which might be created in future, using the powers in clause 39 of the draft Bill. Clause 38 also introduces Schedule 3 to the draft Bill, which makes consequential amendments to existing statutory references to PTAs.

***Chapter 2: Arrangements relating to Passenger Transport Authorities***

**Clause 39: Power to establish a new PTA**

93. This clause provides that, under certain conditions, the Secretary of State can make orders establishing new passenger transport areas and creating PTAs for those areas. *Subsections (3) and (4)* provide that in areas where a PTA does not at that time exist, any combination of two or more county councils, unitary authorities or metropolitan district councils can carry out a review of the efficiency and effectiveness of the existing transport arrangements in their area. If that review concludes that a passenger transport area and PTA should be established to improve the exercise of statutory transport functions in the area, then those councils must publish a scheme proposing how this should be done. *Subsections (2) and (5)* provide that the Secretary of State can make an order to establish a PTA only where a scheme has been published by the authorities in question, and that the passenger transport area must cover the whole of those authorities' areas (i.e. it cannot cover only half of a county).



**Clause 40: Secretary of State's power to direct a review**

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

- existing PTAs;
- county or district councils in an existing passenger transport area; or
- county, district or unitary authorities which are not yet in a passenger transport area.

95. He can direct that the review should consist of any of the matters covered by clauses 44 to 50, namely:

- the constitutional arrangements (for example the membership) of the PTA;
- the delegation of functions from himself or individual local authorities to a PTA (or to a local transport authority for areas where there is no longer a PTA);
- conferring on a PTA 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 a passenger transport area.

96. *Subsection (7)* 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 passenger transport area would have on the PTA).

97. *Subsection (9)* 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 PTA).

**Clause 41: Guidance**

98. This clause provides that the Secretary of State can issue guidance to those bodies which he has directed to carry out a review. This guidance can cover any of the issues which could be included in a direction and those bodies must have regard to this guidance in carrying out their reviews.

**Clause 42: Complying with a direction**

99. *Subsection (2)* provides, firstly, that the body which the Secretary of State has directed to carry out the review and publish a scheme can include in them any of the issues covered by clauses 44 to 50 (see above) even if they were not actually referred to in the direction itself. Secondly, where a PTA is responsible for the review and scheme it can also include matters which are not dealt with in legislation but are currently left to the PTA to decide upon.

**Clause 43: Further provision about directions and guidance**

100. This clause provides that directions and guidance must be in writing. Their contents can also be amended or revoked by further directions or guidance.

#### **Clause 44: Constitutional arrangements**

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

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

103. *Subsection (3)* defines what is meant by “executive arrangements” within the PTA, for instance the establishment of an executive and the arrangements by which that executive can exercise the powers of the PTA. These provisions mirror the provision made for local authorities by Part II of the Local Government Act 2000.

104. *Subsection (5)* makes clear that an order cannot provide that anyone other than the PTA has responsibility for agreeing its budget, so for instance this could not be delegated to an executive of the PTA.

#### **Clause 45: Delegation of functions of the Secretary of State**

105. This clause provides that the Secretary of State can make an order delegating any of the Secretary of State’s own functions, for instance the management of one or more trunk roads, to:

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

106. 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 46: Delegation of local authority functions**

107. This clause similarly 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:

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

108. This applies to such functions only in so far as they relate to the geographical areas of the PTA (or to the former area of a PTA), and only if the Secretary of State thinks it appropriate for the PTA or other authority to exercise that function.

#### **Clause 47: Conferral of a power to direct**

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

110. Where the power to direct is conferred on it, a PTA or local 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 highways authority or traffic authority. These powers include the ability to install traffic management measures (such as bus lanes), traffic calming measures and the carrying out of maintenance works on their roads.

111. *Subsection (6)* provides that such directions can apply controls in the case of specific roads or networks of roads (such as major bus routes). *Subsection (7)* makes clear that directions cannot apply to roads covered by concession agreements – e.g. tolled roads.

112. *Subsection (8)* lists these matters to which a direction can relate, which are:

- the provision of information about the exercise of highways or traffic authority powers;
- that the directed body must do certain things or obtain consent before using those powers (for instance notifying and/or obtaining the consent of the body which issued the direction before carrying out major road works on a major road);
- imposing conditions on how the directed body can make use of its powers in a particular case (for instance when it can carry out road works on a major road);
- that the directed body must not make use of certain of its powers in certain circumstances (for instance that it must not install humps on a particular road); and
- that the directed body must make use of its powers in a specific case (for instance that it must install, or agree to the installing of, a bus lane on a road).

#### **Clause 48: Contravention of an order under section 47**

113. This clause provides that if a body to which the Secretary of State has granted the power to direct under clause 47 issues a direction to another body and the latter fails to comply with that direction – for instance it fails to take the necessary action to enable a bus lane to be installed on one of its roads – then the body 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 body for the purposes of putting matters right and recouping its costs from that body.

#### **Clause 49: Changing the boundaries of a passenger transport area**

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

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

115. Where the order removes an authority's territory from a PTA 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 PTA's other functions – in so far as they relate to that territory – to that authority.

**Clause 50: Dissolution of a passenger transport area**

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

**Clause 51: Orders under sections 44 to 50**

117. This clause sets out several constraints on the Secretary of State's power to make orders under clauses 44 to 50, including:

- an order can only cover those matters – e.g. PTA membership – which were themselves covered in the direction made to a body under clause 40 or which were in the scheme published by that body in response to such a direction (*subsection (2)*);
- before making the order he must consult representatives of the bodies which he can direct under clause 40(2) and any other person he considers relevant (*subsection (6)*);
- an order dissolving a PTA 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 (7)*); and
- an order changing the boundary of a PTA 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 52: Incidental etc provision**

118. This clause provides that the Secretary of State may make an order including such consequential, transitional or supplementary provision as he deems necessary in support of another order he makes under Chapter 2 of Part 4 of the draft Bill. For instance, the order may provide for the transfer of certain of the Secretary of State's own property and assets to a PTA in consequence of an order under clause 45 which has delegated certain of his functions.

119. *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 him to be appropriate in consequence of making an order, for instance to reflect the fact that a new PTA has been established.

### **Clause 53: Procedure for orders under this Chapter**

120. This clause provides that any order made under Chapter 2 of Part 4 would be a statutory instrument and subject to affirmative resolution.

\* A statutory instrument subject to the *affirmative resolution* procedure must be debated and approved by both Houses of Parliament before it could come into force.

### **Clause 54: Change of name of PTA**

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

### **Clause 55: Amendment of power to reorganise functions**

122. 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 49 and 50 of this draft Bill provide updated powers to dissolve passenger transport areas or amend their boundaries. Given that, this clause repeals the out of date provisions in the Local Government Act 1985.

## ***Chapter 3: Functions of Passenger Transport Authorities etc.***

### **Clause 56: Development of policies no longer joint duty with district councils**

123. Section 108 of the TA 2000 places a duty on local transport authorities, including PTAs, to:

- develop policies for the promotion and encouragement of safe, integrated, efficient and economic transport facilities and services to from and within their area;
- carry out their functions so as to implement those policies; and
- prepare a local transport plan which sets out their policies.

124. Section 113 of the TA 2000 provides that certain duties should:

- be performed jointly by PTAs and the individual metropolitan district councils which fall within their boundaries; or
- apply to both, but separately.

125. The provisions in clause 56 are consequential changes to the TA 2000 resulting from removing the duty on PTAs, and the individual local transport authorities which make up their area, jointly to produce local transport plans and bus strategies (see clauses 57 and 59).

### **Clause 57: Nature of duty to develop transport policies**

126. This clause amends section 108 of the TA 2000. *Subsection (2)* omits the words “facilities and services” from the duty in section 108 set out in paragraph 123 above. This amendment widens the policy functions of the PTA from their previous public transport emphasis to transport matters generally. *Subsection (3)* makes consequential changes following on from subsection (2).

127. *Subsection (4)* inserts new subsections (2ZA) to (2ZE) in section 108 of the TA 2000. These subsections create new duties: firstly, to take account of any policies announced by the Government which relate to climate change or its consequences and, secondly, to have regard to any guidance on this subject which the Secretary of State may issue. The two duties would apply to PTAs in carrying out those duties imposed on them under section 108.

### **Clause 58: Integrated Transport Strategies and Implementation Plans**

128. *Subsection (1)* removes the duty on PTAs under section 108 of the TA 2000 to prepare a local transport plan. This duty is replaced by the provision in *subsection (2)*, inserting new subsections (3A) and (3B) into section 108, which impose a new duty on each PTA to prepare two documents:

- an Integrated Transport Strategy (“ITS”); and
- an Integrated Transport Implementation Plan (“ITIP”).

129. *Subsection (3)* inserts two new sections (108A and 108B) into the TA 2000.

130. The new section 108A concerns the preparation and review of ITSs. It provides that each PTA must keep its ITS under review and can amend or replace it as and when it thinks fit. Subsection (3) of the new section sets out those bodies which a PTA must consult in preparing or reviewing their ITS. Subsections (4) and (5) provide that a PTA must publish and send a copy to the Secretary of State where they replace or amend their ITS. They must also make a copy of their ITS available for public inspection, publicise where it can be seen and supply a copy of it to any person on request.

131. The new section 108B concerns the preparation and review of ITIPs. It provides that a PTA must keep its ITIP under review and can amend or replace it as and when they wish. Subsection (3) of this new section sets out those bodies which a PTA must consult in preparing or reviewing their ITIP. Subsections (4) and (5) provide that a PTA must publish and send a copy to the Secretary of State where they replace or amend their ITIP. They must also make a copy of their ITIP available for public inspection, publicise where it can be seen and supply a copy of it to any person on request.

132. *Subsections (4), (5) and (6)* of clause 58 make consequential changes to the TA 2000 and other relevant legislation, reflecting the fact that the previous duty on PTAs to prepare a local transport plan has been replaced with a duty to prepare an Integrated Transport Strategy and an Integrated Transport Implementation Plan.

### **Clause 59: Bus strategies for a passenger transport area no longer required**

133. *Subsections (1) to (3)* exclude PTAs from the list of local transport authorities which are currently required to prepare a bus strategy. Following on from this, *subsection (4)* makes a consequential amendment to section 89 of the TA 1985.



### **Clause 60: Power to promote well-being**

134. PTAs operate within a framework laid down by statute. They have no powers to act other than where they are expressly 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.

135. This clause provides PTAs 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 PTAs 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.

136. *Subsection (3)* makes clear that this power enables PTAs to work in partnership with other bodies. For example, it allows PTAs to assist other statutory bodies to discharge their functions, or to exercise those functions on their behalf.

### **Clause 61: Limits on power to promote well-being**

137. *Subsection (1)* limits the power established in clause 60 by preventing a PTA from taking any action that is subject to statutory prohibitions, restrictions or limitations specifically set out in legislation. *Subsection (2)* prevents PTAs from using the well-being power in clause 60 to raise money. *Subsection (3)* allows the Secretary of State to prevent PTAs from using the power to do anything which he specifies by order that they should not do, subject to the consultation requirements in *subsection (5)*.

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

### **Clause 62: Power to amend or repeal enactments**

139. Clause 60 provides PTAs 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 62 allows the Secretary of State, by order, to amend, repeal, revoke or disapply any such enactment which obstructs PTAs from taking steps to promote the well-being of their areas. This power could be exercised in relation to particular PTAs.

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

### **Clause 63: Procedure for orders under section 62**

141. This clause sets out the procedure to be followed by the Secretary of State in making orders under clause 62. It provides for detailed scrutiny of any such orders. Before laying any orders, the Secretary of State is required to consult local government and others. He must make available to Parliament the results of that consultation, together with an explanation of the purpose of the order.



## **PART 5 – LONDON AND LOCAL CHARGING SCHEMES**

### ***Clauses 64 to 70: Involvement of Passenger Transport Authorities***

#### **Clause 64: Power of PTAs to make charging schemes**

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

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

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

145. Because PTAs are established only in England, this clause and clauses 65 to 70 have no application to Wales.

#### **Clause 65: Local charging schemes to implement policies of PTAs**

146. 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 a passenger transport area, can be made only if it directly or indirectly facilitates the achievement of the local transport policies of both the charging authority and the PTA.

*\* Local transport policies are defined in section 108(5) of the TA 2000, inserted by clause 2, as explained above.*

#### **Clause 66: Joint local charging schemes to implement policies of PTAs**

147. 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 a passenger transport area, it can be made only if it directly or indirectly facilitates the achievement of the local transport policies both of the charging authorities and of the PTA.

#### **Clause 67: Joint local-PTA charging schemes**

148. This clause inserts a new section 165A in the TA 2000. This new section specifies that a joint local-PTA 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 passenger transport area of the relevant PTA.

149. The new section 165A also provides that a joint local-PTA charging scheme can be made only if it directly or indirectly facilitates the achievement of the local transport policies of the charging authorities (which include the PTA).

150. Subsection (3) of the new section 165A requires each charging authority to consider the likely effects of the scheme on the level of emissions which contribute to

climate change or atmospheric pollution from vehicles using roads in the combined area of the charging authorities or roads in the area of any local traffic authority that adjoins that combined area.

#### **Clause 68: Joint local-London charging schemes to implement policies of PTAs**

151. This clause amends section 166 of the TA 2000 so that a joint local-London charging scheme that has effect wholly or partly within a passenger transport area may be made only if it directly or indirectly facilitates the achievement of the local transport policies of the charging authorities, the policies and proposals set out in the Mayor's transport strategy, and the local transport policies of the PTA. As with the equivalent provision in section 165 as amended by clause 66, the last of these three requirements applies even though, in a joint local-London scheme, the PTA 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.

\* 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 69: Joint PTA-London charging schemes**

152. This clause inserts a new section 166A in the TA 2000. The new section specifies that a joint PTA-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 of the GLA Act 1999; and
- at least one of the roads included within the scheme is within the passenger transport area of the relevant PTA.

153. The new section 166A also provides that a local charging scheme may be made jointly by one or more local traffic authorities, a PTA 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 PTA), and the policies and proposals set out in the Mayor's transport strategy.

154. Subsection (4) of the new section 166A requires each charging authority to consider the likely effects of the scheme on the level of emissions of substances which contribute to climate change or atmospheric pollution from motor vehicles using roads in the combined area of the charging authorities or roads in the area of any local traffic authority that adjoins that combined area.

#### **Clause 70: Consequential amendments**

155. This clause introduces Schedule 4, which makes consequential amendments resulting from the introduction of powers to allow PTAs to be party to a joint charging scheme. This includes provision for revenues from a scheme to be apportioned to the PTA.

**Clause 71 to 82: Miscellaneous amendments**

**Clause 71: Environmental effects of local charging schemes**

156. This clause inserts new subsections into sections 164, 165 and 166 of the TA 2000, requiring charging authorities to have regard to the likely effects of the scheme on the level of emissions of substances which contribute to climate change or atmospheric pollution from motor vehicles using roads in the area of the charging authority or roads in the area of any local traffic authority that adjoins that area.

157. The clause extends to England and Wales.

**Clause 72: Abolition of requirement for confirmation of English schemes**

158. 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.

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

**Clause 73: Abolition of power to require consultation or inquiries for English schemes**

160. 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.

161. 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 74: Charges**

162. 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.

163. 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).

164. The clause extends to England and Wales.

**Clause 75: Manner of payment of charges**

165. *Subsection (1)* amends section 172 of the TA 2000. It allows the appropriate national authority by means of regulation 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.

166. *Subsection (3)* makes a similar amendment to Schedule 23 to the GLA Act 1999, in relation to London.

#### **Clause 76: Interference with functioning of equipment**

167. *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. These subsections extend to England and Wales.

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

#### **Clause 77: Use of equipment for charging schemes**

169. *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.

170. 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).

171. *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 paragraphs 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.

**Clause 78: Power of national authority to require information from charging authorities**

172. *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 a PTA 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.

173. *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 79: Information: England and Wales**

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

175. 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 PTA 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 PTAs to use in relation to a proposed charging scheme information it has obtained from its exercise of other functions.

176. The effect of *subsection (5)* is to allow the Secretary of State or the Welsh Ministers to charge a reasonable fee for supplying information under section 194 of the TA 2000.

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

**Clause 80: Information: Scotland**

178. Section 63(1) of the Transport (Scotland) Act 2001 allows information obtained by any Minister of the Crown or government department, or certain other bodies, to be disclosed to a charging authority (or authorities) in relation to a charging scheme in Scotland, for or in connection with the exercise of any of their functions in relation to that scheme. Section 63(3) provides that such information may also be disclosed to any person with whom the charging authority (or authorities) has entered into arrangements for the purposes of making, establishing or operating a scheme.

179. This clause allows the Secretary of State to charge a reasonable fee for the provision of information under sections 63(1) and (3) of that Act.

**Clause 81: London charging schemes: 10 year plan for share**

180. This clause repeals paragraphs 19 to 24 of Schedule 23 to the GLA Act 1999. Those paragraphs currently require the preparation of general plans on the application of proceeds from London charging schemes over a ten year period and programmes every four years for applying those proceeds.

## **Clause 82: Other amendments relating to schemes under Part 3 of TA 2000**

181. This clause introduces Schedule 5, which makes amendments to Schedule 12 to the TA 2000 (financial provisions relating to road user charging and workplace parking levy schemes).

182. *Paragraph 8* of Schedule 12 is amended, and paragraph 9 repealed, to the effect 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.

183. *Paragraph 10* is 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.

184. *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.

## **FINANCIAL EFFECTS**

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

186. The draft 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.

## **PUBLIC SERVICE MANPOWER**

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

188. 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 draft Bill.

## **EUROPEAN CONVENTION OF HUMAN RIGHTS**

189. The Secretary of State has concluded that the provisions contained in the draft Bill are consistent with the European Convention on Human Rights.



## **TRANSPOSITION NOTES**

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

## **COMMENCEMENT DATES**

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

- the provisions in Part 6 (Supplementary Provisions), other than clause 84 and Schedule 6 (Repeals); and
- any power under or by virtue of the Bill to make regulations or an order.

192. Other provisions would come into force on such day or days as the Secretary of State may by order made by statutory instrument appoint.

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

## **GLOSSARY**

### *Existing Acts referred to in these Explanatory Notes*

<b>Abbreviation used in these Notes</b>	<b>Short Title of Act</b>
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)





# Department for Transport

## Strengthening local delivery: The draft Local Transport Bill

### Volume 4: Regulatory impact assessment

Presented to Parliament by the  
Secretary of State for Transport,  
by Command of Her Majesty  
May 2007

Cm 7043-IV

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## 1. Introduction

1.1 This Volume sets out a partial assessment of the regulatory impacts arising from the proposals in the draft Local Transport Bill. A consultation paper, the draft Bill and accompanying Explanatory Notes are published alongside this document as Volumes 1 to 3 respectively.

1.2 Views on the contents of these assessments are invited as part of the overall consultation on the proposals contained in the draft Bill. Chapter 7 of the consultation paper sets out details of how to respond. We would particularly welcome views on the potential effects of the proposals on different socio-economic groups, to inform a fuller assessment of equality-related impacts.

1.3 Given the variety and complexity of proposals contained in the draft Bill, we are publishing four separate regulatory impact assessments within this Volume. They cover our proposals to:

- improve the quality of local bus services (Parts 2 and 3 of the draft Bill);
- facilitate reform of local transport governance arrangements, with particular reference to the major English cities outside London (Part 4);
- reform the existing legislative provisions relating to local road pricing schemes (Part 5); and
- create a new statutory post of senior traffic commissioner (which appears in Part 1).

1.4 As the individual assessments point out, many of the provisions in the draft Bill create or amend powers for local authorities to take certain actions or implement certain types of scheme. These provisions do not, by themselves, have any impact on businesses, individuals, voluntary organisations or others. Any impacts will depend on the extent to which local authorities choose to exercise those powers, and the manner in which they choose to do so.

1.5 It is therefore impossible to quantify the costs and benefits that would arise from the provisions in the draft Bill, but the assessments give an indication of the nature (and where possible the broad potential scale) of costs and benefits that might be expected to arise. Importantly, however, the assessments describe some of the measures that will help to ensure that local authorities exercise their powers in an appropriate and responsible manner. At this stage, we consider it unlikely that the package of proposals in the draft Bill would be associated with substantial net new financial costs for local authorities. We will, however, in consulting on the draft Bill and revising our proposals, assess further whether the package would create new costs for the local authority sector. The Government will ensure that any net additional costs falling on the local authority sector as a result of the Bill are fully funded, as required under its “new burdens” rules.



## 2. Improving local bus services

### Title of proposal

2.1 This partial Regulatory Impact Assessment (RIA) assesses the impact of the bus-related provisions in the draft Local Transport Bill.

### Purpose and intended effect

#### a) Objectives

2.2 The key objective for this part of the legislation would be **to improve the standard of local bus services in England and Wales**. Ensuring better-quality bus services is an important part of the Government's strategy to tackle congestion, by providing more people with a realistic, reliable and cost-effective alternative to private car use. Bus services also play a key role in supporting personal mobility, social inclusion and access to essential services.

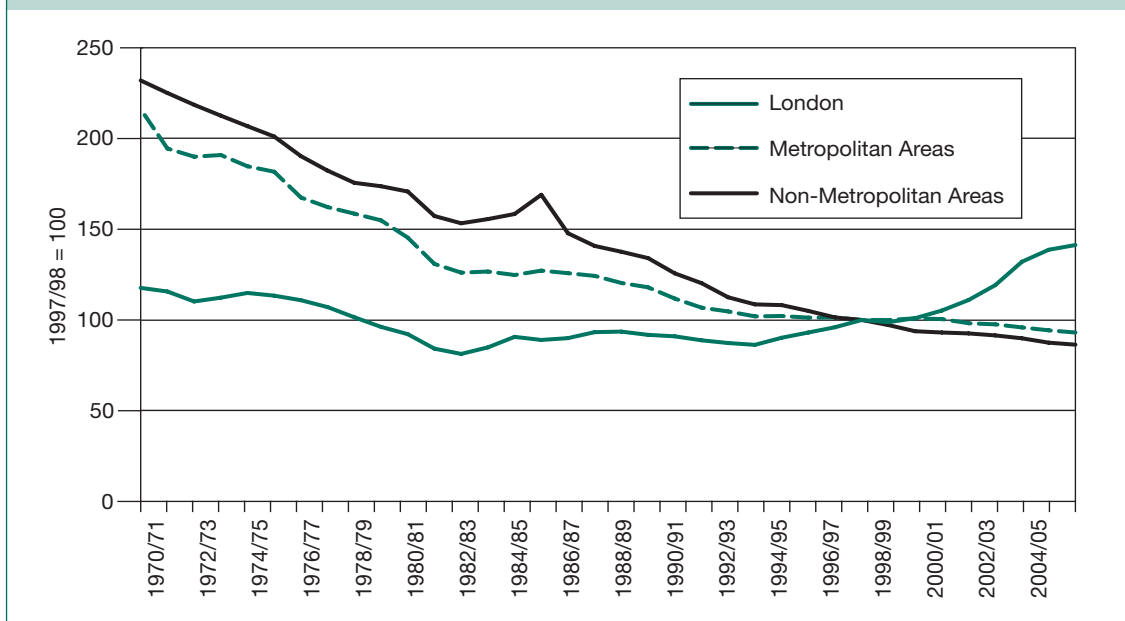
#### b) Background

2.3 Buses are Britain's most-used form of public transport: over 4 billion journeys, or nearly two thirds of all public transport journeys, are made by bus. The Government provided around £2 billion in 2005/06 helping to fund the operation of bus services around the country. The total spend is expected to have increased to around £2<sup>1</sup>/<sub>2</sub> billion in 2006/07.

2.4 Bus patronage has been on a long-term downward trend since the 1950s, but has shown signs of levelling off in recent years. However, the quality of bus services still varies markedly from place to place and, without significant further steps, we risk bus services in more and more of our communities becoming locked into a vicious cycle of decline. Falling patronage leads to fewer services being commercially viable; in response, operators might reduce service levels or increase fares, inducing further falls in patronage.



**Figure 1: Index of passenger journeys in England by type of authority, 1970/71 to 2005/06**



### The bus market outside London

2.5 The Transport Act 1985 (“the 1985 Act”) established the current structure of the bus market in Great Britain (outside London). This is essentially a deregulated structure: any holder of a Public Service Vehicle operator’s licence may operate bus services, having first registered various details (including routes and timetables) with the appropriate traffic commissioner. The traffic commissioners are responsible for enforcing compliance with these registered details, including standards of reliability and punctuality.

2.6 The bus market outside London, although deregulated, has a high level of concentration, with the largest five firms controlling a substantial proportion of the market. For example, these five firms account for 89 per cent of bus mileage within the six Passenger Transport Executive (PTE) areas in England, and a higher proportion of passengers. There is little on-road competition within specific areas, with one operator controlling over half of mileage in four out of the six PTE areas<sup>1</sup>.

2.7 Under this deregulated structure, local transport authorities have no powers to operate bus services themselves, though they do have powers to subsidise services that would not be provided on a commercial basis. Currently about 22 per cent of services outside London are supported by local authority subsidy, generally allocated by competitive tender.

2.8 Since around 1990, a number of individual local authorities have entered into voluntary partnership agreements with bus operators. Typically they involve investment by the local authority in improved facilities for buses, and by the operator in better-quality vehicles and services. Many of these

<sup>1</sup> *The Decline in Bus Services in English PTE Areas: the Quest for a Solution*, NERA, 2006.

schemes have led to significant growth in bus use, though not all have been successful, and the voluntary nature of these agreements means that compliance cannot be enforced.

2.9 The Transport Act 2000 (“the 2000 Act”) provided some additional powers for local authorities outside London, enabling them to put in place two kinds of statutory scheme:

- **quality partnership** schemes, which can involve multiple operators in a single scheme and can be enforced by the traffic commissioners; and
- **quality contracts** schemes, which involve suspending the deregulated market in a specific area for a specific period of time, allowing the local transport authority to let exclusive contracts to operators to run services as specified by the scheme.

2.10 We continue to believe in the basic philosophy behind these provisions in the 2000 Act, supporting partnership working where it can be made to operate effectively, and providing for quality contracts schemes where they are demonstrably in the public interest. However, the detailed implementation of the policy has left a system that has not delivered all that was expected of it.

#### *The bus market in London*

2.11 By contrast to the situation in the rest of Great Britain, bus services in London were not deregulated by the 1985 Act. Since the privatisation of London Buses Ltd, they have been operated under contract to the public authority, currently Transport for London (TfL). TfL lets contracts for around 700 routes through a competitive process, with 20 per cent of routes being re-let each year. Contracts last from five to seven years depending upon performance.

#### *Community transport*

2.12 The community transport (voluntary) sector plays an important role in providing transport to specialised groups or in circumstances which do not support a commercial service. Voluntary bodies can operate minibuses (and in some circumstances larger buses) under two special permit systems under the 1985 Act.

2.13 Section 19 permits allow such bodies to carry specified classes of passenger, e.g. their own members or the client groups they serve. Section 22 permits allow bodies concerned with the social and welfare needs of one or more communities to carry the general public on local bus services (which are registered in the same way as commercial services). All services provided under these permits must be operated without a view to profit. Some larger community transport organisations also hold Public Service Vehicle operators'

licences of the type issued to commercial operators. While use of section 19 permits has expanded over the years, there has been little take-up of section 22 permits. The community transport sector believes it could play a larger role in filling the gaps in commercial public transport provision, if there were relaxations in the rules governing section 22 permits.

### c) Rationale for government intervention

2.14 The principal reasons for reforming the current provisions are:

- **benefits from network optimisation and coordination of services and policies which the deregulated bus market is not always able to deliver.** In many circumstances bus operators are unable to work together and with local authorities to provide well coordinated services, due to the potential interaction with competition law. However, there may be significant passenger benefits from evenly spaced frequencies and the integration of timetables with other bus services and other modes. Similarly there can be benefits from common ticketing, marketing and branding of services. These all appear to have been important factors in increasing patronage in London and to some extent other urban areas such as Brighton, York and Cambridge, but it has not been possible to achieve this cooperation in other areas, particularly larger urban areas, under the current regulatory environment.
- **punctuality remains one of the prime requirements of existing and prospective bus passengers,** particularly those who have access to a private car as an alternative. Many failures to operate to timetable are due to factors within bus operators' control, but local traffic management and congestion can often be a contributing factor. While the traffic commissioners can consider aspects of punctuality in determining whether an operator has failed to run a registered service in accordance with the registration, their powers to do so are limited, due in part to the variable quality and accuracy of data collected by operators. Traffic commissioners have no powers to hold local authorities to account for their contribution to bus punctuality performance.
- the **emerging proposals for demand management schemes, including local road pricing schemes,** currently being developed by local authorities in a number of areas. Where such schemes are adopted, it will be especially important for local authorities to be in a position to guarantee accompanying improvements to public transport and ensure value for money from any associated subsidies.
- the fact that, while a number of voluntary partnership agreements are in existence, **only one quality partnership scheme has so far been made under the statutory powers in the 2000 Act, and no quality**

**contracts schemes have been made.** A number of contributing factors, identified in the light of local authorities' experiences since the 2000 Act, could be addressed by amending the current legislation.

- **the contrasting experiences in London, where bus services are operated under franchise, and many other parts of the country.** Experience from London has shown how increased investment and other measures, within a framework of bus franchising, can help to deliver real improvements: bus patronage has increased by 34 per cent between 2000-01 and 2005-06. In contrast, rising patronage outside London is largely confined to a few towns and cities where conditions are particularly favourable. While some aspects of the bus market in London are unique or not directly applicable elsewhere, the London experience does suggest that a “quality contracts” approach can assist in halting or reversing decline, particularly in major urban areas. To the extent that the overall bus reforms reverse the long-term decline outside London, passengers and bus operators would benefit from a long-term viable, secure and growing market.

## Consultation

2.15 Consultation has been undertaken with a range of stakeholders.

### a) Within government

2.16 Consultation within Government has involved the Office of Fair Trading (OFT); the Department for Environment, Food and Rural Affairs; the Department for Communities and Local Government; the Department for Trade and Industry (including the Small Business Service); HM Treasury; the Department for Constitutional Affairs; the Scottish Executive; and the Welsh Assembly Government.

### b) Public consultation

2.17 When Gillian Merron, Parliamentary Under Secretary of State for Transport, appeared before the Transport Select Committee in June 2006, she agreed to take a “long hard look” at bus services. Following this, Ministers and officials held wide-ranging consultation sessions with key stakeholders. These included:

- the Confederation of Passenger Transport (CPT) and some representative small and medium-sized bus operators;
- major bus operators;
- the Local Government Association (LGA), Association of Transport Co-ordinating Officers (ATCO), the Passenger Transport Executive Group (PTEG) and representatives from a selection of individual Passenger Transport Executives and local authorities;

- the Senior Traffic Commissioner; and
- non-governmental organisations with an interest in transport policy issues, including those representing passengers.

2.18 Following this comprehensive review, the Government's proposals for bus policy were set out in *Putting Passengers First*<sup>2</sup>. An extensive programme of work is being undertaken with local authorities and bus operator representatives through the Bus Partnership Forum, to develop and refine the proposals in a number of areas. This process is being widened to include other stakeholders such as the OFT and the traffic commissioners.

2.19 Publication of the draft Bill, and the accompanying consultation document, provides an opportunity for all interested parties to contribute to the development of our proposals.

## Options

### **Option 1: Do nothing – leave the legislative framework as it is**

2.20 This would mean the legislative framework remains as set out in the 1985 and 2000 Acts.

2.21 Schemes would still be able to be made, but on the basis of experience to date it is likely that few more quality partnership schemes would be set up. The difficulties which have so far prevented quality contracts schemes being a realistic option would persist, regardless of circumstances and the balance of benefits and costs in a particular location.

2.22 Doing nothing would not remove the barriers that have constrained take-up of the existing provisions, and would do nothing to support the Government's objectives of improving the quality of bus services and thereby increasing patronage in order to help reduce congestion and emissions and improve accessibility. Under the status quo it is likely that over the long term after 2010 (once the benefits of free local and national concessionary fares have worked through) bus patronage and bus services outside London would continue to decline. For those authorities contemplating the possibility of demand management schemes (such as local road pricing schemes), doing nothing would also constrain their ability to implement the complementary public transport improvements that are needed to maximise the effectiveness and public acceptance of such schemes.

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<sup>2</sup> *Putting Passengers First: The Government's proposals for a modernised national framework for bus services*, Department for Transport, December 2006, [www.dft.gov.uk](http://www.dft.gov.uk).

## Option 2: Voluntary measures

2.23 Voluntary partnership agreements have been successful in some areas of the country in improving the level and quality of bus services. The Department welcomes any that are made and recognises their value. Besides the voluntary partnership agreements described in paragraph 2.8 above, service stability agreements<sup>3</sup> and punctuality improvement partnerships<sup>4</sup> offer other methods of voluntary partnership working. However, these have had only moderate success, due mostly to slow take-up and negotiation.

2.24 There are limits to what can be achieved under a voluntary partnership agreement. Such agreements are generally bilateral between a local authority and a single operator – voluntary agreements involving more than one operator risk breaching the Competition Act 1998 if they are perceived as involving collusion between operators leading to a distortion of the market. (Quality partnership schemes would address those issues but are limited in other respects, mainly because under current legislation they cannot be used to specify frequencies or timing of services, or fare levels and structures). Awareness of these limitations and the potential for legal challenge has been a deterrent to using the voluntary process to the full.

2.25 The Department is working with stakeholders, including the OFT, to develop guidance which would facilitate the making of agreements with more than one operator while minimising the risk of a breach in competition law and it is possible that, even without legislation, the parties could develop more comprehensive voluntary agreements. However, there is considerable unease, on the part of both local authorities and bus operators, about relying too heavily on guidance in matters where the competition issues and any legal risks are not clear-cut.

2.26 As a result of this work, we have identified potential legislative changes to the competition regime which we believe could help promote these voluntary measures by creating greater certainty.

## Option 3: Change the legislative framework

2.27 Proposals within the scope of this RIA are legislative changes that would:

- promote more effective partnership working between local authorities and bus operators, to deliver services that are better matched to the needs of passengers in their local areas;

<sup>3</sup> Under a service stability agreement, operators in a local authority area agree to make changes to their network or timetables only on pre-agreed dates in the year, and give local authorities more generous notice of changes than is required by the legislation.

<sup>4</sup> Under a punctuality improvement partnership, operators and local authorities agree to work together to remove the barriers to operating a punctual bus service.

- make the implementation of ‘quality contracts’ schemes a realistic option in areas where the local transport authority can demonstrate that it is in the public interest for them to take greater control over bus services;
- provide a new regime to support the delivery of improved punctuality; and
- support further development of the community transport sector, by removing unnecessary restrictions and by streamlining the system for issuing permits to community transport providers.

2.28 These measures would apply in England and, for the most part, in Wales. Provisions relating to community transport would apply additionally in Scotland. Further details of the territorial extent of the proposals are contained in the Explanatory Notes to the draft Bill, and in the accompanying consultation document. The assessment of costs and benefits in this RIA is not, in general, affected by the territorial extent of the measure in question.

## Costs and benefits

### a) Sectors and groups affected

2.29 Sectors and groups affected by the proposals include:

- bus operators;
- bus passengers;
- other road users;
- local authorities, including Passenger Transport Authorities and Metropolitan District Councils; and
- traffic commissioners.

2.30 The sections below outline in broad terms the kinds of benefits and costs that would arise from the package of proposals; subsequent analysis then gives an indication of the potential scale of these benefits and costs that can arise from real-world schemes. But because the legislative framework provides enabling powers for local authorities to design and implement schemes where they consider them to be appropriate for their local areas, aggregate costs and benefits of such schemes will depend crucially on whether, and how, those powers are used.

2.31 The benefits of the proposed legislative changes are assessed against option 1 of continuing with the status quo. The greater emphasis on voluntary measures under option 2, without any legislative changes, is not expected to



have a significant impact on outcomes (and hence on costs or benefits) compared to option 1.

2.32 The Government is aware that authorities in several towns and cities might be interested in making use of reformed quality partnership and quality contracts schemes powers, though we would expect a relatively small number of these schemes in the first instance, but greater usage of voluntary agreements. Subsequent take-up would probably depend on the early progress of these initial schemes.

## b) Benefits

2.33 **Bus passengers** would benefit in a number of ways, and these benefits will clearly accrue especially to socio-economic groups that tend to use buses more frequently than average. This would include individuals from lower-income households, older people and disadvantaged groups. The intention is also to develop bus services of sufficient quality that more people with access to a car will be attracted to them. Anticipated benefits would include:

- improved punctuality. Punctuality and reliability are invariably cited as the most important factors in passenger satisfaction surveys. Improvements in punctuality and reliability can deliver substantial benefits and offer good value for money;
- stabilised fares;
- more integrated fare structures allowing through-ticketing or tickets valid on any operator's services in the area; and
- more integrated network planning resulting in a more coherent pattern of routes and more co-ordinated timetabling of services, with particular attention to accessibility planning, i.e. greater opportunity to catch the right service going to the right destination at the right time.

2.34 **Bus operators** would benefit from:

- increased ability to coordinate routes and frequencies across a network and with other modes;
- in the case of quality contracts, greater predictability of future revenue (at least under some tendering arrangements);
- systematic information on punctuality performance, which could help them identify and hence address any problem areas; and
- to the extent that overall reforms reverse the long term decline in bus patronage outside London, bus operators would benefit from a long-term viable and growing market and greater long-term security of their businesses.

2.35 **Private and commercial road users** (and users of other non-bus modes of transport) would benefit from:

- reduced traffic congestion resulting from increased bus patronage; and
- increased viability of alternatives to private car use.

2.36 **Local authorities** would benefit from:

- increased ability to coordinate routes and frequencies across a network to meet the needs of local passengers; and
- more influence over bus services, and hence the ability to have a more integrated transport policy that will have a positive effect on passengers and the local area, enabling them to address regeneration and social inclusion objectives more effectively.

2.37 **Traffic commissioners** would benefit from:

- improved information on punctuality and performance that would facilitate their role in ensuring that bus operators are delivering the services they have registered; and
- greater scope to engage with local traffic authorities to support their work on bus performance management.

2.38 **Environmental benefits** would arise from achieving modal shift from cars to buses, with reductions in emissions of local air quality pollutants and greenhouse gases – particularly if local authorities choose to include air quality and/or greenhouse gas-related objectives in quality contracts or quality partnership schemes.

2.39 These measures are consistent with the Department for Transport's aim to deliver a transport system which balances the needs of the economy, the environment and society.

### c) Costs

2.40 There should be no significant cost implications for **bus passengers** and a potential for cost savings through lower fares and better inter-availability of tickets. However, in some areas where quality contracts schemes are introduced, there may be disbenefits from the loss of competing low-cost services. These should be offset by higher quality and greater reliability of services.

2.41 There would be a cost to **bus operators** through:

- reduced commercial freedoms if a quality contracts scheme is introduced by a local authority. However, the draft Bill includes measures to ensure that this can only be done following due process, including formal consultation exercises, the requirement for approval by a new Approvals Board and the right of appeal to the Transport Tribunal<sup>5</sup>. The new criteria which would be inserted by the draft Bill mean that quality contracts schemes would have to be demonstrably in the public interest, taking into account the impact on bus operators.

We are discussing with stakeholders the options for measures to avoid any disproportionate impacts on smaller operators, allowing them to bid for contracts; and

- in cases where punctuality data is not already collected by operators, the requirement to collect that data and make it available for scrutiny. We are working with bus operators to establish how best to minimise these costs, while maximising the benefits of this information to bus operators, local authorities and others.

2.42 There could be a cost to **local authorities** who choose to put in place a quality contracts scheme, in terms of start-up costs and subsequently monitoring contract compliance. The local authorities would need to demonstrate value for money and availability of funding before any proposed quality contracts scheme could go ahead. Local authorities may also face costs in processing punctuality data and providing reports for the traffic commissioners.

2.43 There would be a cost arising for the **traffic commissioners** as a result of:

- the cost of monitoring compliance with an increased number of quality partnership schemes;
- the need to analyse punctuality reports and take appropriate action; and
- the proposed new role in approving quality contracts schemes.

2.44 The costs and benefits are expanded upon below, for the main areas of the buses part of the draft Bill.

#### **d) Quality partnership schemes and voluntary partnership agreements**

2.45 Quality partnership schemes, if successfully promoted through the new legislation, would be expected to show the benefits demonstrated by a number of successful voluntary bus partnership agreements, increasing

<sup>5</sup> In the case of schemes in Wales, approval would continue to be by the Welsh Ministers and the right of appeal to the Transport Tribunal would not apply.

patronage by improving service quality. This generates benefits to society if it involves modal shift away from cars, reducing the external costs car usage imposes (e.g. congestion, accidents, pollution), or improves accessibility. Greater environmental benefits could be secured if these schemes also cover the emission standards of local buses. A greater number of bus trips can also generate wider economic benefits and extra revenue. Further benefits come through time savings, as bus priority measures can reduce bus journey times and improve reliability.

2.46 Studies of existing voluntary partnership agreements broadly agree that, on average, they can increase patronage in the region of 20-22 per cent<sup>6</sup>, although there is a large range of patronage uplift for individual schemes e.g. in Mackie (2000) values range from 5 per cent to 60 per cent<sup>7</sup>. Though there have been successes with voluntary agreements, there have also been a significant number of voluntary agreements which have been less successful and have been discontinued when problems have arisen. The effectiveness of any scheme in raising patronage depends upon the features included in the scheme and the background trends in each area. The ability of the traffic commissioners to enforce quality partnership schemes means that they may yield greater benefits, perhaps for a longer period, than voluntary agreements which rely on continued cooperation between the parties concerned.

2.47 Examples of voluntary partnership agreements include:

- **Nottinghamshire Calverton Connection:** 29 per cent increase in patronage in the first year after introducing a partnership involving bus lanes, new buses, increased service frequency, driver training and route branding<sup>8</sup>.
- **York:** 24.5 per cent increase in bus use since 2000 and 22 per cent increase in park and ride use. Journeys are now four to twelve minutes faster by bus than by car, meaning passengers will also experience time saving benefits. This coincides with strong priority measures including bus lanes, bus gates, traffic congestion management and bus location systems. Service improvements have also been made, e.g. to bus stops and the introduction of “talking signs”. Complementary schemes will have made a contribution to the patronage rise. These include parking charges, concessionary fares and pedestrianisation<sup>9</sup>.
- **Brighton and Hove:** 5 per cent increase in patronage each year and a 10 per cent decrease in town centre traffic over three years, with benefits from reduced congestion and emissions. Enhancements have included bus lanes, automatic vehicle location, prioritised signals and

<sup>6</sup> For example, Mackie (2000) finds 22 per cent, LEK Consulting (2002) find 21 per cent, Knowles (1999) finds 20 per cent and CPT (2002) suggest a higher average figure of 33 per cent.

<sup>7</sup> *The Demand for Public Transport: A Practical Guide*, TRL 2004.

<sup>8</sup> *The Demand for Public Transport: A Practical Guide*, TRL 2004.

<sup>9</sup> *On the move 2006, Passenger, Partnerships and Growth*, CPT 2006.

a major publicity campaign. Services have been improved through new low-floor, environmentally-friendly buses, a flat rate fare and real time information, along with complementary measures including park and ride and parking charges.<sup>10</sup>

2.48 The cost of a voluntary partnership agreement varies greatly with the type of scheme being considered. The costs are mainly for the infrastructure, but also marketing and administration. CPT (2006) gives a rough guide of costs. For example, bus lanes are given an estimate of £300,000 per kilometre<sup>11</sup>.

2.49 Analysis of a recent partnership agreement in a medium-sized, historic city shows that such agreements can provide good value for money. The estimated costs and benefits of this case study are outlined in Table 1. The scheme made improvements to bus stops and introduced higher-quality low-floor buses, as well as providing more bus priority. These costs are spread over an assumed scheme life of twelve years and are discounted to their present value, with a provision for optimism bias. Large benefits are estimated from time savings and reliability, due to bus priority, and quality due to bus improvements.

**Table 1: Estimated costs and benefits of a voluntary partnership agreement in a medium-sized city**

<b>Costs:</b>	
Bus stops and low-floor buses	£17.26m
Bus priority	£2.39m
Total cost	£19.65m
Total present value cost per year	£2.03m
Optimism bias	£0.81m
<b>TOTAL COST per year</b>	<b>£2.85m</b>
<b>Benefits:</b>	
Journey time savings	£3.70m
Reliability	£1.23m
Quality benefits	£1.21m
Reduction in external costs from cars	£0.08m
Increase in GDP	£0.11m
Revenue gain	£0.76m
<b>TOTAL BENEFITS per year</b>	<b>£7.10m</b>
<b>Benefit to cost ratio (BCR)<sup>12</sup></b>	<b>2.49</b>

<sup>10</sup> *On the move 2006, Passenger, Partnerships and Growth*, CPT 2006.

<sup>11</sup> *On the move 2006, Passenger, Partnerships and Growth*, CPT 2006.

<sup>12</sup> This is a resource based benefit cost ratio (BCR) as it is considering a regulation. A BCR based upon the Department's New Approach to Transport Appraisal (NATA) would produce a much higher BCR.

## e) Quality contracts schemes

2.50 The proposed changes to legislation would help to remove some of the existing barriers to introducing quality contracts schemes. However, to proceed there would need to be a strong public interest case for requiring a quality contracts scheme. This would need to be demonstrated against published criteria in making the case, for schemes in England, to the approvals board chaired by a traffic commissioner (normally the senior traffic commissioner). Schemes in Wales would continue as now to be approved by the Welsh Ministers, but potential schemes would be judged against the same published criteria as in England. The proposed criteria are set out in Box 1 below.

### **Box 1: Proposed criteria to be met before a quality contracts scheme could be made**

The proposed new test would state that, before making a quality contracts scheme, the proposing authority must publish a consultation document which:

- a) describes the proposed scheme, including the services to be provided as part of it;
- b) explains how the scheme will:
  - (i) increase<sup>1</sup> the use of local bus services in the local area;
  - (ii) bring benefits to passengers by improving the quality of local bus services. Benefits might include, for example, reduced waiting times, faster journeys or more comfortable vehicles;
  - (iii) contribute to the implementation of the authority's transport policies;
  - (iv) do so in a way that is economic, efficient and effective; and
  - (v) ensure that, if the scheme is likely to have a significant adverse effect on competition, this effect is proportionate to the benefits it is expected to deliver.
- c) describes the local arrangements which the authority will put in place to deliver the scheme;
- d) explains how the authority will meet the costs they expect to incur; and
- e) includes a declaration by the local authority chief finance officer that appropriate financial arrangements can be put in place to meet any costs incurred by the local authority.

<sup>1</sup> For the purposes of the legislation, a reference to increasing the use of local bus services includes a reference to reducing, arresting or reversing decline in the use of bus services.

2.51 There would be a transparent process for local authorities to demonstrate that they had satisfied those criteria, and for those likely to be affected to test their conclusions and methodology, as part of the approval process. This should ensure that quality contracts schemes are introduced only where they will deliver genuine improvements for bus passengers and the local transport system, and are demonstrably in the public interest.

2.52 In addition, local authorities would be discouraged from introducing a quality contracts scheme for the whole of a major urban area at the same time under one contract, but instead encouraged to facilitate bids which involve small as well as large operators and hence also encourage a competitive market for future contracts.

2.53 Quality contracts schemes can potentially offer significant benefits, although this will be highly dependent on the local context, and the scheme design such as bus prioritisation and any other accompanying measures. The benefits could include:

- local authorities would be able to optimise the bus network. This could reduce any needless duplication of bus services and ‘over-busing’ on some corridors, and ensure that bus services frequencies are coordinated and services are integrated with other modes;
- local authorities would also be able to have an input into fare levels, along with integrated ticketing, branding and marketing, which can have a significant impact on patronage;
- local authorities could choose to promote environmental objectives through the design of a quality contracts scheme, for example by specifying low-emission vehicles;
- competitive tendering should ensure that local authorities get value for money and that profits are not excessive (even if patronage growth is achieved); and
- the wider reform package would also provide both the incentives and the structures to bring forward bus priority and demand management measures.

2.54 Costs and benefits would vary significantly depending upon which of these features – and others – formed part of the proposed scheme.

2.55 Quality contracts schemes are not expected to be the favoured or most appropriate approach in many areas. However, where plans do meet the criteria then many of these benefits could be expected. The potential benefits are illustrated below in a hypothetical scenario which assumes that quality contracts schemes are introduced in six major conurbations. It is assumed that fares remain at current levels instead of rising by 5 per cent, frequency is



increased by 10 per cent and quality is raised, resulting in an estimated 7 per cent increase in patronage. The benefits of this are estimated to be approximately £487 million, as outlined in Table 2. This does not include all the possible benefits, although some of these could involve double counting and others depend a great deal on the scheme design.

**Table 2: Estimated benefits of quality contracts schemes in six major conurbations, with a scenario of 7 per cent increase in patronage**

Consumer benefits	£383m
Increase in GDP	£67m
Revenue gain	£26m
Reduction in external costs of cars	£10m
<b>TOTAL BENEFITS per year</b>	<b>£487m</b>

2.56 There are a number of costs that could be associated with quality contracts schemes, such as:

- transitional disruption to the network – there could be a halt to investment, even dis-investment in the lead-up to a quality contracts scheme, and/or transitional turbulence to services should a local authority choose to re-configure the network;
- the loss of innovation, dynamism and enterprise by moving to a planned approach to bus networks and services with the elimination of new entry over the contract period and flexibility by private bus operators. This might be mitigated by the involvement of bus operators to make their own proposals for routes, frequencies and fares, based on the core or minimum requirements of the contracting authority;
- administration costs – additional local authority staff, plus legal and consultancy costs;
- start up costs – local authorities may need to buy depots to allow competition and recover the cost of the depots by leasing them to the contracting operators. There may also be costs of switching staff;
- service quality costs – the costs of infrastructure such as bus lanes and prioritisation to improve quality. If new vehicles or higher-specification vehicles are required as part of a quality contracts scheme this will involve additional costs;
- there could be significant costs for authorities if they wanted to maintain or reduce fares when bus operating costs rose, or if they wanted to introduce new routes or increase services – in particular increasing peak services can be expensive if the extra buses involved are under-utilised for the rest of the day.

2.57 Overall we would expect that where quality contracts schemes are introduced they will offer good value for money and be demonstrably in the public interest (indeed local authorities will be required to demonstrate this to the Approvals Board in England or the Welsh Ministers in order to proceed). It will be important that the cost implications have been considered and can be funded.

2.58 As highlighted above, the net costs and impacts of a scheme will be highly dependent on the design and decisions on fares and quality made by a local authority, as well as the impact on patronage resulting from the scheme and any associated demand management.

#### **f) Punctuality**

2.59 Requiring operators to provide punctuality data should encourage them to improve their service punctuality, as there could be financial or licensing consequences if they perform badly. The power to make regulations requiring operators to provide this information already exists, though discussions are proceeding with stakeholders as to the extent to which it might be used. The proposed measures regarding local traffic authorities will encourage them to take bus priority more seriously and engage more fully with bus operators in removing obstacles to punctual services and, if successful, would lead in turn to improved patronage.

2.60 The benefits of improved punctuality include: the benefits to current passengers of reduced waiting time; the benefits from time savings for the generated trips; and the revenue from the extra trips. The main method of collecting punctuality data on a large scale is likely to be through satellite positioning (e.g. GPS) technology, although small operators or those in areas with better punctuality (e.g. rural areas) may find other methods are appropriate (e.g. onboard surveying). The bus industry is being consulted on data collection methods.

2.61 Use of systems that are automated as far as possible should help to minimise ongoing costs to operators, although smaller bus operators may want to consider the alternative approaches. The costs to operators of collecting this data using GPS would include: capital; installation; data transfer; staff time and consultancy. GPS has been piloted in London and will be rolled out for all London buses. Many bus operators outside of London already have or plan to use GPS systems to collect punctuality data. A recent survey, taken by the Department, showed around 28 per cent of operators outside London were currently using GPS, amounting to 53 per cent of the buses in the sample. This would help to mitigate some of the additional costs of this requirement, although there might still be costs involved in processing the data provided by those operators already using GPS.

2.62 Estimates of the potential costs and benefits of gaining punctuality data show it could be good value for money, as illustrated in Table 3. These estimates are based on collecting data for all local buses in England outside of London that do not currently have GPS and processing the data for all

operators. Costs for large operators (taken to be those with 50 or more buses) are based on installing GPS, where capital costs are spread over an assumed scheme life of seven years.

2.63 However, these costs are assumed to be unrealistic for small operators (taken to be those with fewer than 50 buses). The Department considers that the existing legislation which permits the making of regulations requiring operators to submit punctuality information is sufficiently flexible to enable different requirements to be made of smaller operators and rural operators, for whom congestion may be less of an issue.

2.64 This could take, for example, the form of an agreed continuous programme of off-bus monitoring at terminals and pre-determined points elsewhere; or an agreed structured programme of spot-checks throughout the area, with clear targets of the number of observations to be carried out (say) each month to ensure statistically robust results. For the purpose of this analysis a cost per bus of £1,000 has been assumed. There would also be some costs in central processing of data, assumed to be £10,000 per operator per year, which could be borne by bus operators or an enhanced traffic commissioner, depending upon the final scheme.

2.65 In terms of benefits, it is assumed that the majority of buses meet their punctuality target after the scheme is introduced. London has now surpassed its target, with a real time information system including GPS. Installing GPS could accelerate the provision of real time information (RTI), yielding further positive benefits to passengers. Bus passengers value RTI at bus stops at between four pence and six pence per trip. The value of RTI for car users if they switch to buses is around three times that for bus users. Installing GPS on buses would also provide a management tool for bus operators further to improve punctuality if they invested in the back office equipment and staff. These developments would capture extra benefits to those analysed, but also additional costs.

**Table 3: Estimated costs and benefits for collecting punctuality data on all local buses, currently without GPS, in England outside London and producing punctuality reports for all operators in England outside London**

<b>Costs (per year)</b>	
<i>Costs for operators with 50 or more buses:</i>	
Capital	£450 per bus £5,000 per operator
Data transfer	£46.30 per bus
Back office staff	£25,000 per operator
Consultancy	£6,000 per operator
<i>Cumulative cost to all operators with 50 or more buses</i>	<i>£5.0m</i>
<i>Costs for operators with fewer than 50 buses:</i>	
Total cost of gaining data	£1,000 per bus
<i>Cumulative cost to all operators with fewer than 50 buses</i>	<i>£6.8m</i>
<i>Cost for operators/ regulatory authorities:</i>	
Cost of processing data and reporting	£10,000 per operator
Cumulative cost of central processing of data	£6.5m
<b>TOTAL COST per year</b>	<b>£18.3m</b>
<b>Benefits (per year)</b>	
Reduced waiting time for existing passengers per year	£60.5m
Increased demand per year	£0.4m
Revenue gain	£3.9m
<b>TOTAL BENEFIT per year</b>	<b>£64.8m</b>
<b>Benefit to cost ratio (BCR)<sup>13</sup></b>	<b>3.5</b>

2.66 The Quality Incentive Contract (QIC) Scheme introduced by TfL for London buses has had a major impact in improving reliability and punctuality with a reduction in excess waiting time from over two minutes to just over one minute, in a large part due to reductions in lost vehicle kilometres arising from staff shortages. The London Assembly report<sup>14</sup> concluded that the costs of improving reliability and punctuality via the QIC had delivered good value for money. However, a QIC scheme would only be feasible for other areas under a tendering regime such as a Quality Contracts Scheme.

<sup>13</sup> This is a resource based benefit cost ratio (BCR) as it is considering regulation. A BCR based upon the Department's New Approach to Transport Appraisal (NATA) would produce a much higher BCR.

<sup>14</sup> *Value added? The Transport Committee's assessment of whether the bus contracts issued by London Buses represent value for money*, London Assembly, March 2006.

### **g) Community transport**

2.67 The proposal to allow drivers of vehicles under section 22 permits to be paid should increase the pool of drivers available to work for community transport bodies and hence increase the number of services provided.

Experience suggests that new services are most likely to start in areas where there is a severe shortage of public transport from other sources and strong community support for the initiative.

2.68 The legal requirements that the body concerned must not operate with a view to profit will remain, and will, in the Government's view, safeguard the interests of smaller commercial operators. This should address any concerns of commercial operators over competition from community transport.

2.69 The proposed relaxation of vehicle size limits applying to section 19 and section 22 permits will provide new opportunities to community transport bodies without imposing any new burdens on them. The use of section 19 permits for vehicles with fewer than 8 seats will be limited to the current definition of "public service vehicle" so they can carry passengers only at separate fares, and not in circumstances that a private hire vehicle, or taxi, licence would be required.

2.70 The proposal that all section 19 permits should be issued by traffic commissioners rather than designated bodies (local authorities or national organisations concerned with education, religion, social welfare or recreation) would secure efficiency gains and more consistency in applying the criteria. For some users of permits, this would entail a modest additional burden; for others it would be cost-neutral.

2.71 The above proposals were developed with a view to consultation and the Department will consider carefully the views of stakeholders, both within and outside the voluntary sector in response to the draft Bill.

### **h) Miscellaneous provisions**

2.72 There are a small number of additional bus-related provisions in the draft Bill, with little (if any) anticipated regulatory impact.

- **Private hire vehicle (PHV) licences** – This measure would enable the holders of PHV licences to obtain a special restricted PSV licence, thus allowing them to use PHVs to provide local bus services. The holders of taxi licences can already apply for such a licence, and this proposal would simply extend the provision to the holders of PHV licences. This is voluntary, so does not directly impose any costs. For those who take up the option there would be the modest cost of the fee for the licence (currently £53 for each 5 year period). However, accessibility and social inclusion benefits may accrue in rural areas where there are marginal services, if the new eligibility is taken up by PHV licence holders.

- **Sale of council-owned bus companies** – Deregulating the sale of council-owned bus companies, so the Secretary of State or Welsh Ministers no longer have to give consent, would provide costs savings to local authorities and the Department. This measure should have no impact on the private or voluntary sectors.
- **Rules for local authorities and the Welsh Ministers subsidising services** – It is proposed that more flexibility would be given to authorities in subsidising services. This is to make clear that authorities may subsidise services to increase the *standard* of service on a particular route (for example in terms of frequency, hours of operation or quality of vehicles), as well as to support the provision of services on a route that would not be provided without subsidy. It means resources may be redistributed in a way that will provide more benefits to passengers. The Welsh Ministers have similar powers to local authorities in subsidising services, and it is proposed that this additional flexibility should apply to them also.
- **Extending the maximum length of bus subsidy contracts** – Longer contracts would give the opportunity for investment to be undertaken that otherwise would not have occurred. Local authorities could gain better value for money from this and supported services could be improved. Extending the length of contracts could be detrimental to competition, as tendering takes place less frequently, although longer contracts might encourage more operators to bid. Local authorities would need to assess carefully the impacts on competition and value for money in designing bus contracts.
- **Procedure for appeals against traffic regulation conditions** – This would be a cost-neutral shift of responsibility within public bodies (from the Secretary of State to the Transport Tribunal). Traffic regulation conditions and appeals against them are both rare, so the impacts are likely to be small. The measure provides the benefit of giving a more independent process.

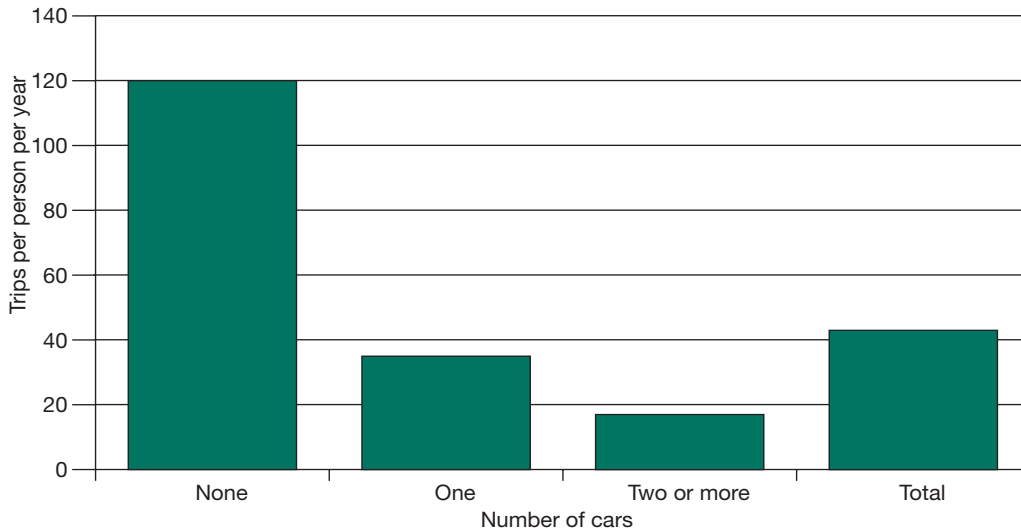
## i) Equality

2.73 Bus services have a key role to play in delivering improved accessibility and social inclusion. Government guidance has required that Accessibility Planning be integrated in the Local Transport Plans for 2006-2011. Local authorities, with other providers and operators in the private, public, voluntary and community sectors, should consider the scope for addressing accessibility problems through improved public transport availability, including through the use of flexible transport services and the design of the bus network.

2.74 Social groups who use buses more than others should benefit disproportionately from the proposed policies. In 2005 bus use in England outside London was characterised as follows:

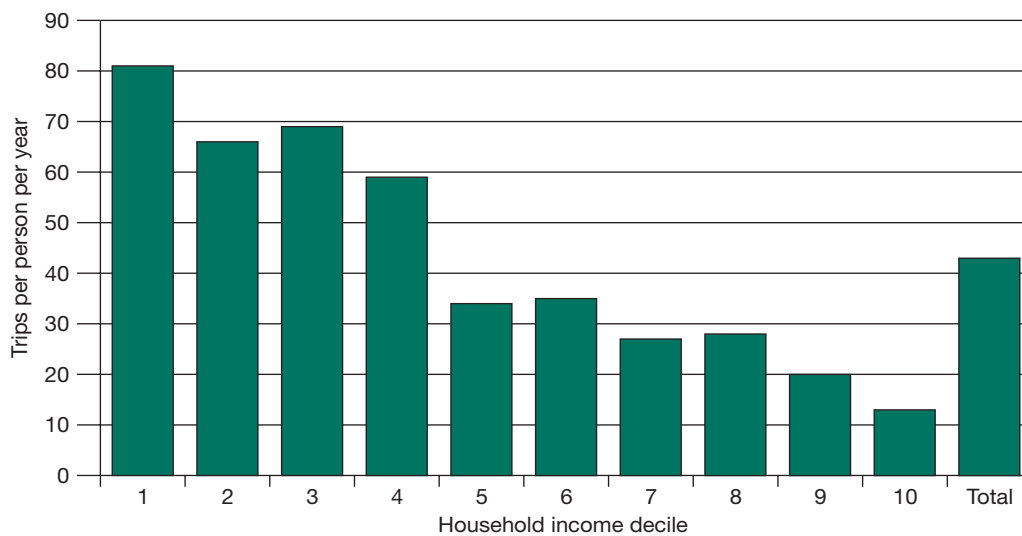
- Bus trips are predominantly made by those without access to a car. People without a car in their household make more than three times as many bus trips per year as those with one car in their household:

**Figure 2: Trips by non-London local bus per person per year by household car availability, England, 2005**



- Individuals in the lowest four income deciles make significantly more bus trips than those in higher income groups:

**Figure 3: Trips by non-London local bus per person per year by household income, England, 2005**

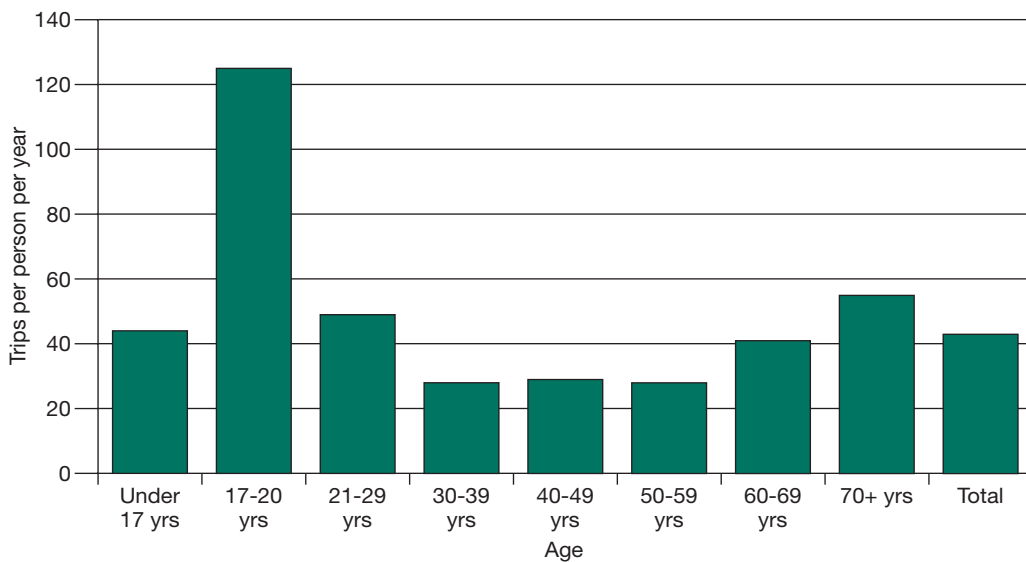


- Females tend to use buses significantly more than males. In 2005 females made on average 54 trips per year compared to 39 for males.



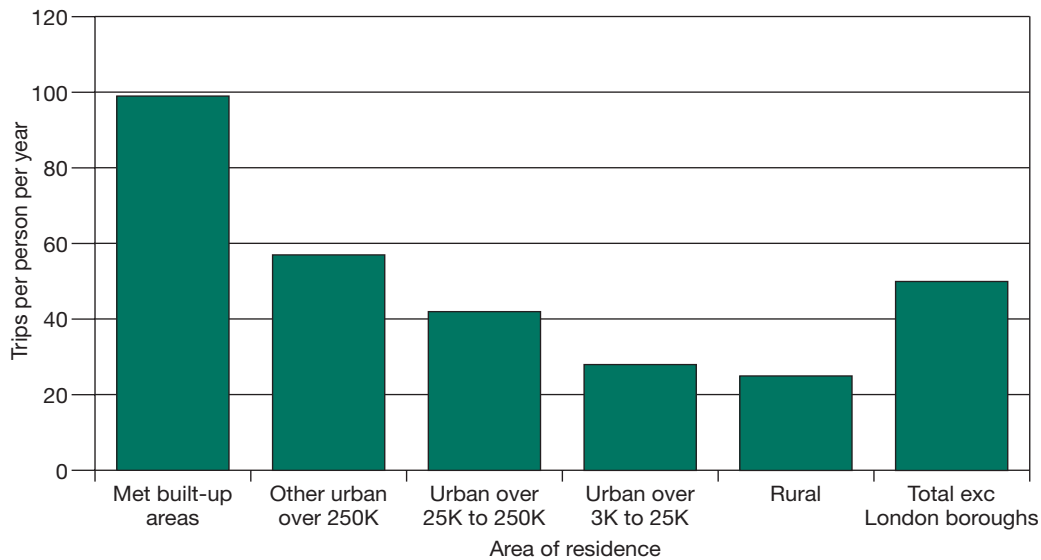
- Young people aged 17-20 make more than twice as many bus trips per year as individuals in other age groups. Individuals over 70 are the next most frequent bus users, with their access to concessionary fares:

**Figure 4: Trips by non-London local bus per person per year by age, England, 2005**



- On average non-white individuals make approximately 9 per cent more trips per person per year than white individuals.
- Non-London bus use by people living in England outside London is considerably higher per person in metropolitan areas than elsewhere. It follows that people living in less populated areas make fewer trips per person per year. Those living in rural areas tend to make approximately 12 per cent fewer trips per person per year than those in the smallest urban areas:

**Figure 5: Trips by non-London local bus per person per year by area of residence, England, 2005**

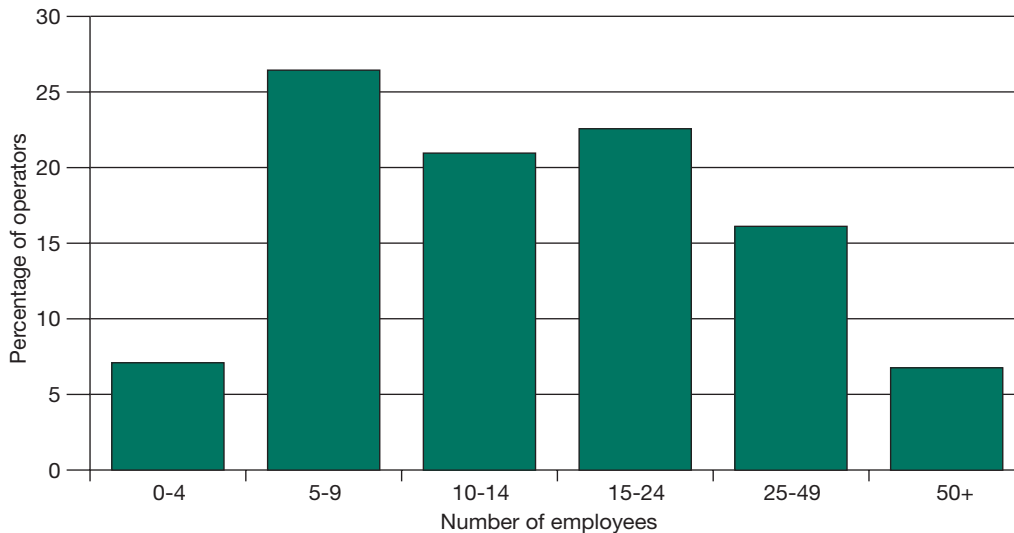


- In Great Britain adults with mobility difficulties, defined as a condition making it difficult to go out on foot or use a local bus, make approximately a third fewer total trips by any mode per person per year than those without mobility difficulties. Despite this, adults with mobility difficulties make on average 14 per cent more local bus trips per person per year than those without mobility difficulties. Disabled people are eligible for concessionary bus travel and increasingly, bus operators are turning to low-floor vehicles compliant with the Public Service Vehicles Accessibility Regulations 2000. Currently over half the full-sized buses used on local services in England are low-floor and wheelchair-accessible.

2.75 Overall given that bus users are disproportionately from low income groups, non-white individuals, female and people with disabilities we would expect the reforms to have a positive impact on equality.

### Small firms impact test

2.76 The bus market contains a number of very large operators and considerably more small operators, giving a total of approximately 650 operators in England excluding London and 900 in Great Britain. Five major companies account for around two thirds of services and an even greater proportion of passenger trips.

**Figure 6: Local bus operators by number of staff**

2.77 Our initial analysis indicates that smaller operators could be particularly affected by:

- **Quality contracts schemes.** In this case, the impact will depend heavily on the detailed design of the contracts and we will work with stakeholders to address this issue (including through the issuing of guidance under a new power which would be inserted in the Transport Act 2000). The London model, where individual routes are subject to separate contracts, would maximise the opportunity for smaller operators to compete, but would be likely to involve higher costs for local authorities (by increasing tendering and contract monitoring costs) and to bus operators (in terms of bid costs). Alternatively, tendering larger contracts covering multiple routes may make it harder for small operators to compete.
- **Punctuality data requirements.** As outlined above, the fixed costs involved in establishing punctuality reporting systems may raise particular issues for smaller operators. We will explore these issues further through consultation, with a view to ensuring that requirements do not impose disproportionately high costs on smaller operators. One option may be to set different data requirements for smaller operators and services in rural or less congested areas.

2.78 The Department has been consulting with the CPT, whose members include the majority of small operators. Gillian Merron, Parliamentary Under Secretary of State for Transport, also met a delegation of three small or medium-sized operators, as part of the review process described above prior to publication of *Putting Passengers First*. We will be consulting further with small, as well as large, operators as part of the process of consultation on the draft Bill. This will cover the contents of the proposed draft Bill and the

impacts of possible policies, in particular the options for providing punctuality data, and the issues around improvements in punctuality through more effective regulation. We expect this consultation to provide additional evidence on specific impacts on small firms, and to identify opportunities to minimise any adverse impacts.

2.79 The Department has established a working group including bus operator and local authority representatives, to consider the best means of providing information on bus punctuality that will allow appropriate action to be taken where necessary.

### Competition assessment

2.80 We have consulted the Office of Fair Trading, and will continue to liaise with officials as we develop and assess the competition impacts of our proposals.

2.81 There is currently little on-road competition and when it occurs, in many cases, it fails to enhance the quality of service or provide genuine choice. One consequence of the bus industry's consolidation has been that significant on-street competition in the larger urban areas, immediately after de-regulation, has given way to a situation where dominant local companies are often only subjected to episodic on-street competition. It is estimated that only 4 per cent of services are subject to direct competition.<sup>15</sup>

2.82 Option 1 (do nothing) would have no effect, and option 2 (more use of voluntary measures) would have some effect on competition within local bus markets.

2.83 Of the legislative measures covered in Option 3, the changes to quality partnership schemes and voluntary partnership agreements would have fairly limited effect on competition because of the need for schemes to satisfy the relevant competition test in the 2000 Act. The test for quality partnership schemes ensures that if the scheme has, or is likely to have, a significantly adverse effect on competition, that must be justified by the intended benefits, and be proportionate to what is needed to achieve those benefits. Under the test proposed in the draft Bill it would be necessary to demonstrate, in the case of any voluntary partnership agreement which had as its object or effect the prevention, restriction or distortion of competition, that the agreement would contribute to the achievement of specified public interest objectives, that the restriction on competition was necessary to achieve those objectives, and that the effect would not be to eliminate competition in a substantial part of the services in question.

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<sup>15</sup> *Competition in the Bus Market*, Report prepared for Commission for Integrated Transport, The TAS Partnership, 2005.

2.84 It is inherent in the nature of quality contracts schemes that competition is eliminated from a specified set of routes for a defined period of time, once a contract has been let. Of course as contracts are let through a competitive tendering process then quality contracts would introduce 'competition for the market' which may be more effective than the existing 'competition within the market'.

2.85 The impact on competition (and the number of operators in a local area) would be sensitive to the design of the contracts themselves, and in particular the number of separate contracts within the area concerned. Bus operators who failed to secure quality contracts would still be able to compete for contracts to operate school bus services and other specialist services, and would be free to take on private hire work, to operate long-distance services or excursions which are not regulated, all of which could help to preserve a local presence of smaller operators. There might also be scope to develop opportunities for sub-contracting of certain services within a quality contracts scheme.

2.86 Through consultation, we will be exploring options for ensuring that local authorities have due regard to the impact on small firms and competition when designing quality contracts schemes. The draft Bill provides for the Secretary of State and Welsh Ministers to issue guidance to local authorities regarding the performance of their functions in relation to quality contracts schemes, which could cover these issues. Crucially however, a local authority would need to ensure that the contractual process and the size of individual contracts would be designed to protect the interests of passengers, and to maintain effective competition for future contracts.

## **Enforcement, sanctions and monitoring**

### **a) Enforcement to ensure compliance**

2.87 A quality contracts scheme would be enforced contractually by the local transport authority. The traffic commissioners' role in registering services and monitoring compliance would be disapplied to services under quality contracts (as already provided in the 2000 Act). Enforcing compliance with quality partnership schemes would (as now) rest with the traffic commissioners with sanctions similar to those they can apply to operators who fail to operate services in accordance with the registered particulars. This includes compliance with punctuality standards, in which the traffic commissioners would be given an enhanced role through better access to data.

### **b) Sanctions for non-compliance**

2.88 Compliance with a quality contract would be a purely contractual matter. There are sanctions, exercisable by the traffic commissioners, against a person who operates a non-contracted service in an area covered by a quality contracts scheme, and against a person who fails to comply with the terms of a quality partnership scheme. All these are provided for in the 2000 Act and no further sanctions are contemplated.

2.89 In relation to bus punctuality, the Government considers that the penalty powers available to the traffic commissioners are basically fit for purpose, but there is scope to address some practical difficulties that have arisen. A small number of specific proposals are therefore set out in the draft Bill and accompanying consultation document.

### **c) Inspections**

2.90 It will be for the local transport authorities to enforce compliance with quality contracts. VOSA will be authorised to obtain evidence of non-compliance in terms of punctuality and quality partnership schemes and supply it to the traffic commissioners (as is the case now) though the traffic commissioners will be less dependent on their evidence as regards punctuality if the changes proposed are made.

## 3. Local transport governance reform

### Title of proposal

3.1 This partial Regulatory Impact Assessment (RIA) assesses the measures in the draft Local Transport Bill to facilitate reform of local transport governance in England, especially in the major urban areas outside London.

### Purpose and intended effect

#### a) Objectives

3.2 The Government's aim is to strengthen the existing system under which the provision of transport services – public transport and roads – is governed and delivered in England, especially in the main urban areas. The proposed new arrangements would apply in England only, and exclude London, where strengthened arrangements were introduced in 2000 through the setting up of the Greater London Authority and Transport for London. The key objectives are to ensure that:

- such areas have the strong leadership they require to ensure efficient and effective transport services are in place and that the bodies providing this leadership are properly accountable to the people of the area;
- financial resources available for improving transport systems in these areas are put to the most effective use;
- the transport network in these areas makes a more effective contribution to sustainable economic development;
- the existing legislation is updated to reflect changing transport needs and patterns since it was first introduced; and
- that this legislation provides the necessary flexibility to allow the right arrangements to be put in place for each area, and that unnecessary legislative barriers which prevent the effective delivery of transport are removed.

#### b) Background

3.3 At present, responsibility for setting overall strategy for transport services outside London and the English metropolitan areas is the responsibility of the county council (e.g. Hampshire or Lancashire) or – where one exists – the unitary authority (e.g. Brighton or Stoke-on-Trent) for that area. Such authorities are also responsible for:



- procuring local bus and light rail services in their area (although the services themselves are delivered by private-sector operators); and
- management of local roads in their area (including building new roads and carrying out maintenance, road works and determining traffic management measures on existing roads, such as traffic lights, traffic signs and bus lanes).

3.4 These duties are set out across several pieces of existing legislation, most notably the Transport Act 2000 (which places a duty on local authorities to produce Local Transport Plans) and the Highways Act 1980 and Road Traffic Regulation Act 1984 (which cover responsibility for the management of roads and traffic).

3.5 Responsibility for, and traffic management on, the English strategic road network (motorways and trunk roads) remains the responsibility of the Highways Agency.

3.6 In the main urban areas outside London (West Midlands, Greater Manchester, Merseyside, South Yorkshire, West Yorkshire and Tyne & Wear), however, the situation is rather different. Responsibility for the local and strategic road network remains with individual metropolitan district councils (e.g. Manchester City Council or Dudley Metropolitan Borough Council) and the Highways Agency respectively. However, Section 9 of the Transport Act 1968 allowed for Ministers to designate certain parts of England, Scotland and Wales as “passenger transport areas”. The intention behind this was that there were certain areas, most obviously highly-populated urban ones, where it was necessary to ensure that some transport services (such as bus routes) were planned and provided in a strategic and integrated manner across the whole of the urban area, rather than simply leaving all such arrangements to individual councils who would only have responsibility for part of the area. To achieve this, the 1968 Act allowed for Ministers to establish area-wide bodies – Passenger Transport Authorities (PTAs) and Passenger Transport Executives (PTEs).

3.7 PTAs were to be responsible for setting the overall strategy for public transport in that area and for determining policy on the provision of services. Their membership was to comprise several elected councillors from each of the individual local authorities in that area, one of whom would act as Chairman of the PTA. Currently membership varies from 12 in the South Yorkshire PTA to 33 in Greater Manchester.

3.8 PTEs were set up as separate bodies, reporting to the PTAs, and were given responsibility for implementing the public transport policies drawn up by the PTA. So, for instance, when first set up they provided the majority of bus services in their areas, and were able to determine routes and fares. These undertakings were later formed into “arm’s length” companies and subsequently sold to the private sector. PTEs no longer have powers to

operate buses or own bus companies, and their main statutory function relative to buses is to procure from private operators the socially necessary services in their area that are not otherwise provided on a commercial basis.

3.9 Whilst many of the rules governing how PTAs and PTEs operate are covered in the 1968 and later Acts, some of the more detailed arrangements were set out in separate Orders which the Act allowed to be made to establish PTAs in individual areas. Four of these Orders were made in 1969 setting up PTAs and PTEs in what are now Greater Manchester, Merseyside, Tyne & Wear and West Midlands. A further two were set up in South and West Yorkshire in 1973, and in each case the PTA became part of the metropolitan county council for that area (e.g. the West Midlands County Council). Only one PTA/E was set up outside England, the Greater Glasgow Passenger Transport Authority, established in 1972 and later reconstituted as the Strathclyde PTA.

3.10 The provisions in the 1968 Act have been amended several times in the years since then, most significantly through the Local Government Act 1985 and the Transport Act 1985. The first of these abolished the Metropolitan County Councils (such as West Midlands) as a whole, but retained the Passenger Transport Authorities themselves. These later Acts did, however, remove the power for any new PTAs to be created, over and above the existing seven. They also prevented any changes being made to the boundaries of the existing PTAs, for instance to allow a further local authority to be incorporated within a PTA area.

### **c) Rationale for government intervention**

3.11 Much of the existing legislative framework for transport governance – especially in cities – dates back many years and was designed to reflect transport needs as they were seen then. It has become increasingly clear that the existing legislation lacks flexibility and needs to be updated to reflect changing patterns of transport needs and use. To take just one example, the readiness of commuters to live further from their place of work and for people to travel further for leisure purposes means that such journeys increasingly take place across local authority boundaries and involve transport modes which are the responsibility of different bodies. This underlines the need for better co-ordination of transport services.

3.12 Amongst other problems, the existing legislation imposes the following constraints:

- it does not allow sufficient flexibility to allow different arrangements to be put in place in different areas in order to reflect the particular needs of each area;
- it does not allow for changes to be made to the existing distribution between different bodies of responsibility and powers covering different modes of transport, for instance to ensure that decisions on roads and public transport in an area are taken in an integrated manner;

- it does not allow for the establishment of new PTAs where these are seen as desirable; and
- it does not allow for the boundaries of the existing PTAs to be altered.

3.13 A lot of attention has been paid to transport governance in various quarters in recent times, with calls for changes to existing arrangements, including from cities themselves who have argued strongly that an effective transport system is a critical spur to improved economic performance. For example:

- a. the report *Improving Local Transport: How Small Reforms Could Make a Big Difference* – produced for the Local Government Association, and published in May 2006 – highlighted what it saw as the need to improve the delivery of transport services through a range of reforms to existing transport governance arrangements, particularly those for PTAs and PTEs;
- b. the *Eddington Transport Study* – carried out jointly for HM Treasury and the Department for Transport by a team led by Sir Rod Eddington and published in December 2006 – highlighted what it saw as several potential barriers which can flow from governance arrangements, including:
  - “existing boundaries [ which ] often do not reflect recent and likely future economic footprints of growing and congested urban areas and their catchments.”
  - “[ voluntary partnership working which ] create a risk that the chosen option is the one that is most acceptable to everyone round the table, which may not be the same as the one that is most beneficial to the group or area as a whole (pejoratively known as a ‘lowest common denominator’ outcome).”
  - “Transport powers are often split amongst a number of different players at a sub national level.... This means that often a decision-making body does not have levers over the full range of [ transport ] modes which can support the effective functioning of an urban area and its catchment.”
- c. The Commission for Integrated Transport’s recent report – *Moving Forward: Transport for City Regions* – called for better strategic integration of transport in metropolitan areas and identified the need for new primary legislation in order to achieve this.

3.14 In the Local Government White Paper, *Strong and Prosperous Communities*, published in October 2006, the Government undertook to bring forward a package of reforms to enable a more coherent approach to

transport to be taken in our major cities. In particular, it cited reform of PTAs and PTEs. However, the opportunity has also been taken to look more widely at transport governance arrangements outside London. The White Paper also drew attention to the importance of ensuring that our cities can optimise their contribution to sustainable economic growth and the need to co-ordinate activity across local authority boundaries in order to enable cities to compete more effectively in the global economy.

## Consultation

### a) Within Government

3.15 In drawing up the governance elements of the draft Local Transport Bill, DfT worked closely with several other Government Departments, including in particular Communities and Local Government (CLG), and HM Treasury (HMT). Discussions were also held with the Scottish Executive and Welsh Assembly Government given the UK-wide nature of the existing legislation on Passenger Transport Authorities and Executives.

### b) Public consultation

3.16 Officials in DfT, together with colleagues in CLG and HMT, held a series of consultation events with key players – including representatives of PTAs and PTEs, local authorities, transport operators, business and environmental groups – in the six existing English PTA areas during January 2007. The aim of these was to obtain views on how effectively the existing transport governance arrangements in each area helped deliver good transport services, and what were the barriers which prevented them working more effectively: in particular, where those barriers stemmed from existing legislation. These views were taken into account by the Department in determining what governance provisions should be included for consultation in the draft Bill.

3.17 Further consultation will be taking place with bodies in the six existing English PTA areas, together with equivalent organisations in other parts of England, following the publication of the draft Bill. The formal consultation process will provide an opportunity for all interested parties to feed in their views.

## Options

### Option 1: Do nothing

3.18 Under this option the existing legislative regime would remain as it is. Even without new legislation it would be possible in both PTA or non-PTA areas for the main bodies with an interest in transport (such as local authorities and PTAs) to review the existing structures they have in place to ensure effective planning and delivery of transport services, including those

which they consider cannot sensibly be dealt with on an authority by authority basis but require a cross-boundary approach (e.g. commuter bus routes). For instance in South Hampshire the different authorities have formed a Solent Transport Partnership, to improve co-ordination of services, and to put in place voluntary (rather than statutory) working arrangements to improve the transport network.

3.19 It may be that such arrangements would prove effective in many areas without the need for more formal structures to be set up under new legislation. However, this would obviously depend upon how far the bodies involved could work together effectively to a common purpose. There would also be a significant risk that, in some areas, the need to get the agreement of all parties for every measure could result in a lowest common denominator approach in determining strategies and transport needs (see paragraph 3.13b above). Voluntary arrangements can also lack stability where there is no permanent statutory structure in place. As they have no formal legal identity, they would also be unable to receive funding directly from Government in the way that a local authority or PTA would be able to. In all, such arrangements would be less likely to deliver the most effective transport services for an area.

3.20 It would not be possible under this option to set up new PTAs or PTEs, nor would it be possible to change the geographical boundaries of the existing ones.

### **Option 2: introduce new legislation, following the existing model of largely standardised arrangements for different areas**

3.21 If changes were to be made to the existing legislation on transport governance, there is the choice of either:

- (i) broadly following the approach in the existing legislation, where transport structures and the distribution of powers and functions in each area are standardised. For instance, each of the six English PTAs would have broadly the same form and functions; or
- (ii) rather than imposing standard governance arrangements, provide for flexibility in the draft Bill to allow different arrangements to be put in place in each area, which reflect the specific needs of that area.

3.22 Option 2 would follow the first of these approaches. The 1968 and 1985 Transport Acts and the 1985 Local Government Act prescribe many of the arrangements which apply to all of the existing six PTAs. Amongst other things, the following are set out in these Acts:

- which parts of the country would be eligible to have PTAs set up in their area;
- how many members each PTA has and how these are allocated between the different local authorities in each PTA area (e.g. that the

South Yorkshire PTA has twelve members and that Sheffield, Doncaster, Barnsley and Rotherham have five, three, two and two seats respectively);

- what powers PTAs and PTEs have in relation to transport, e.g. to procure bus services on behalf of their area; and
- the exact relationship between the PTA and PTE, for instance which of them has powers to borrow money.

3.23 Equally, the Highways Act 1980, Road Traffic Regulation Act 1984 and Transport Act 2000, amongst others, broadly set out the standard responsibilities of local authorities and the Highways Agency regarding roads and traffic.

3.24 It would be possible to update the existing provisions and address many of the objectives identified in paragraph 3.2 under this option, for instance:

- creation of new area-wide duties covering, for instance, overall strategy or public transport provision;
- changes to the current balance of responsibility of local authorities and PTA/Es for roads and public transport respectively;
- changing the number of members on each PTA and how many seats were held by each local authority; and
- allowing for the creation of new PTAs or changes to be made to the boundaries of existing ones.

3.25 This could be done on the face of the draft Local Transport Bill in such a way as to ensure that the new arrangements applied in all areas or all PTA areas. This would be broadly the top-down approach that applies at present.

3.26 As with the existing legislation, however, once these arrangements are set down in primary legislation in this way there is no flexibility to change them except through a subsequent Act of Parliament. This top-down approach would also limit the ability to design different arrangements for different PTA areas.

3.27 It would also be possible to introduce under the option 2 standardised approach several of the additional proposals listed in paragraph 3.33 below, notably:

- replacement of the duty to produce a Local Transport Plan with one to produce an Integrated Transport Strategy;
- a duty to mitigate climate change; and
- giving PTAs powers of “well-being”.



### **Option 3: introduce new legislation, with greater flexibility to define arrangements for individual areas in secondary legislation**

3.28 Option 3, **which is the option adopted in the draft Bill**, would adopt the approach set out in paragraph 3.21 (ii) above; that is it would involve similar changes to the existing legislative regime as set out for option 2, but would allow greater flexibility for different arrangements in different areas. Proposals within the scope of this RIA are as set out below.

3.29 In order to take advantage of this flexibility, the draft Bill contains a power to allow the Secretary of State to direct an appropriate body (or bodies) in each of the six English metropolitan counties to review the existing governance arrangements in their area. Where, having carried out their review, that body considers that changes are needed to existing arrangements in order to provide the best structure to deliver effective transport services in their area, they could be required to publish a scheme setting out the changes that they propose. This could include, amongst other things, changes to:

- the membership and structure of the PTA;
- the division of responsibilities between the PTA and PTE;
- the respective responsibilities of the PTA and individual local authorities for highways and traffic functions;
- the ability of the PTA to influence the measures individual local authorities implement on their roads; and
- changes to the geographical boundary of the PTA area (e.g. to cover an additional local authority area).

3.30 The scheme might include some changes which would require legislation to enact them and others which could be made without legislation. It would also be open to the body carrying out the review to propose that no changes should be made to existing arrangements. The Secretary of State would be able to issue guidance to which the body would have to have regard in carrying out their review and preparing and publishing their scheme. This might, for instance, cover the procedure for carrying out the review including consultation with other bodies, and the timetable for the process.

3.31 Once an area had published a scheme, the Secretary of State would need to consider it and decide whether to implement those parts of it which required legislation by preparing an order for each scheme (for instance, one for Greater Manchester, another for South Yorkshire etc.) and laying these in Parliament. These orders would be subjected to the affirmative resolution procedure (that is, they would have to be debated in each House of Parliament before they could become law). The draft Bill would enable these orders to amend existing primary (e.g. Acts) or secondary (e.g. regulations or orders) legislation by means of an order so as to bring the proposed changes into force – e.g. to change the membership of a particular PTA.



3.32 As well as existing PTA areas, the draft Bill would also allow for two or more councils in an area where there was not currently a PTA to carry out a review of governance in their area. Where they considered that this would improve the effectiveness and efficiency of transport in that area, they would be able to submit a scheme to the Secretary of State proposing that a new PTA be set up. The Secretary of State would then need to decide whether to introduce the necessary legislation to establish the new PTA. As with changes to existing PTAs, this would be done through an affirmative resolution order.

3.33 As well as allowing some flexibility for each area to identify the best governance structures for their needs, it is proposed to introduce certain changes which would apply more widely, as follows:

- to replace the existing duty for a PTA to prepare – jointly with the Metropolitan District Councils (MDCs) in its area – a Local Transport Plan, with a new duty – on the PTA alone – to prepare (a) an Integrated Transport Strategy (ITS), and (b) an Implementation Plan, showing how it intended to implement the ITS. The existing statutory duty on PTAs to produce a bus strategy would be abolished; instead bus strategies would need to be covered as part of the main ITS. The Secretary of State would be able to issue guidance to PTAs on preparing both their ITS and Implementation Plan, and the PTAs would have a statutory duty to have regard to this guidance in drawing up and publishing both documents;
- a duty on both the PTA and individual councils in a PTA area to have regard to government policies and guidance on climate change, in carrying out their various functions and duties; and
- to extend to PTAs the “well-being” power which local authorities already enjoy under the Local Government Act 2000. This would allow them to do anything they consider could help promote or improve the economic, social and environmental well-being of their area, assuming it is not already expressly forbidden under any other legislation.

3.34 In reviewing their governance arrangements, areas may also wish to consider changes in funding arrangements in their area, in particular to ensure clear accountability and transparency, and to ensure that funding decisions can be made at the appropriate level to encourage flexibility between funding streams and foster value for money decisions across the Travel to Work Area. It is likely that most such changes to funding arrangements could be introduced without the need for new legislation. In advance of the consultation, the draft Bill does not explicitly cover financial matters.

## Costs and benefits

### a) Sectors and groups affected

3.35 The following groups would be directly affected by the proposals:

- Passenger Transport Authorities;
- Passenger Transport Executives; and
- local authorities, primarily MDCs although County Councils and Unitary Authorities may also be affected in certain circumstances.

3.36 As explained in paragraph 3.28 above, the recommended option is option 3. Therefore, this analysis focuses largely on that option. The Bill would place a range of new duties on PTAs and local authorities (whilst also removing certain existing duties on them). Depending upon the details of the schemes submitted by each area, it may also have an impact on the functions, structures and powers of each of the above bodies. The rest of this section sets out the broad impact on these various bodies.

#### *Race equality impact*

3.37 There are no direct Race Equality impacts to any of these proposals. However, we would expect the guidance which the Secretary of State would issue to PTAs on carrying out a review of existing governance arrangements and, in particular, on producing Integrated Transport Strategies and Implementation Plans, to address this issue.

### b) Analysis of costs and benefits

3.38 Paragraph 3.2 of this RIA sets out the broad objectives which we are looking to address through these proposals. Options 2 and 3 comprise a combination of placing new duties and removing other existing duties on the bodies set out in section 5 above. Option 3 would also give a significant amount of freedom to PTAs and local authorities to review the need for changes to existing governance arrangements in order to improve the efficiency and effectiveness of transport in their area. Given that, the costs and benefits of many changes flowing from the governance part of the draft Bill would depend upon the detail of the proposals put forward by individual areas, which means that it is not possible to quantify the respective costs and benefits at this stage. That said, we would expect to use the consultation period on the draft Bill to discuss with them the likely impact of the proposals on those bodies most likely to be affected, such as PTAs and local authorities. This should enable us to present a more detailed assessment of likely impacts in the RIA which would accompany any subsequent versions of the draft Bill. In the interim, the following sections list the likely benefits and costs in broad terms.

## **Option 1: Do nothing**

### *Benefits*

3.39 As it would involve no changes to the status quo, option 1 would have the benefit of stability for those bodies and persons working in the field of transport at a local and regional level. However, it would otherwise deliver no benefits over and above those available under the existing arrangements.

### *Costs*

3.40 Again, as it would involve no changes to existing arrangements, option 1 would not impose any direct additional costs.

3.41 However, this would not enable the existing challenges which have been highlighted earlier in this RIA, and which have been identified by a wide range of bodies and commentators, to be adequately addressed. These have created barriers to the establishment of the best possible transport network and services, especially in major urban areas. As such, each of the following can impose an indirect cost on those living, working and doing business in the areas in question:

- potentially an absence of the strong leadership needed to ensure efficient and effective transport services are in place and that the bodies providing this leadership are properly accountable to the people of the area;
- funding for improving transport systems not being put to best use;
- the transport network not making the most effective contribution to sustainable economic development; and
- lack of flexibility to allow the best governance structures for *each* area to be set up.

## **Option 2: introduce new legislation, following the existing model of largely standardised arrangements for different areas**

### *Benefits*

3.42 In imposing a standard model which would apply in all areas where a PTA was in place, option 2 would create greater certainty. Firstly, in terms of the likely cost impact of putting the new arrangements in place. And secondly, for those bodies who need to deal with local transport bodies in several parts of the country (eg public transport operators).

3.43 As mentioned in paragraph 3.27 above, it would also be possible to introduce under option 2 several of the additional proposals listed in paragraph 3.33. In that case, the comments in both the “Benefits” and “Costs” section under option 3 below would also apply here.

### *Costs*

3.44 The main drawback of adopting a standard approach is that the need to design arrangements which were broadly effective in different parts of the country would inevitably mean that these could not be designed with the specific needs of each area in mind. So, they could impose a more rigid bureaucratic structure, and thus potentially additional costs, on some areas where a lighter touch would be sufficient, but not provide the structure to deliver an efficient and effective transport network for other areas.

3.45 However, it is not possible to quantify these costs at this stage as that would depend upon the exact details of the standardised national regime (for instance revised membership and powers of PTAs and PTEs, and where responsibility would lie in future for both public transport services and roads).

### **Option 3: introduce new legislation, with greater flexibility to define arrangements for individual areas in secondary legislation**

### *Benefits*

3.46 The main benefits which the proposals under this option should deliver include:

- flexibility to allow for governance arrangements to be put in place in different areas which directly reflect the particular needs of each area. The transport challenges which face, say, the Tyne & Wear area are not necessarily the same that face Greater Manchester or South Yorkshire. Given that, different governance structures may also be needed. The draft Bill would provide the flexibility to allow for this. In turn, this should lead to more effective management of transport in the major urban areas. This should help the relevant authorities to deliver a more integrated transport system that suits local needs. It will also help to ensure that authorities in these areas wishing to make use of other powers contained in the draft Bill (relating to buses and local road pricing schemes) are well equipped to secure maximum benefits from those measures. As a result, we would expect transport governance reform to deliver indirect benefits to those who travel within the relevant areas – though by their very nature, these benefits will be very difficult to quantify; and
- extending the well-being powers to PTAs would enable them to carry out measures which would benefit their area, economically, socially or environmentally which they would not previously have been able to do. These powers have already been used by local authorities for transport purposes, for example North Tyneside and Newcastle city councils used the powers to enter a joint Private Finance Initiative to replace and repair street lighting across both of their areas. As PTAs would have the choice of whether to make use of these powers or not, they would not impose any unavoidable extra burden on them.

## Costs

3.47 As explained earlier, the relative costs and benefits of changes to be made in different areas would depend upon exactly what changes individual areas were proposing in the governance schemes which they publish. It is not realistically possible to try and assess these at this stage. However, we would expect that the body publishing the scheme would already have carried out an analysis of the relative costs and benefits of their proposals in drawing up their schemes. Inevitably, they would be looking to deliver proposals in which the benefits outweighed any costs.

3.48 We would expect the new duty on a body to carry out a review of existing arrangements (where directed to do so by the Secretary of State) to impose an additional burden on them. However, we would not expect this to be a significant one, and in drawing up guidance on carrying out reviews and preparing a scheme we would be looking to ensure that the process was not unnecessarily onerous and that any bureaucracy was kept to a minimum.

3.49 It would be for local authorities in non-PTA areas to decide whether they wished to carry out a review and publish a scheme proposing the setting up of a new PTA/E. So, it would be up to those authorities to decide whether to incur any costs involve in carrying out such an exercise.

3.50 The proposals would replace the existing duty on the six PTAs to produce a Local Transport Plan (LTP) with one to produce an Integrated Transport Strategy and Implementation Plan. At this stage it is not possible to assess how far this would represent an increased or decreased burden on PTEs. We would expect to explore this with them during the consultation period and in working up the detail of what ITSs and Implementation Plans would be expected to cover. However, the draft Bill would reduce the burden on the 36 MDCs by removing the existing duty on them to prepare an LTP jointly with the PTA in their areas.

3.51 The current duty on PTAs refers to the need to develop policies for “integrated, efficient and economic transport facilities and services” but omits explicit reference to environmental aims. In practice no PTA in recent years has developed policies or carried out functions in isolation from broader consideration of sustainable development objectives. The proposed duty to have regard to climate change provides an appropriate statutory objective to ensure that transport policies are developed in this context, but is not itself expected to increase the costs of authorities or contractors.

## Small firms impact test

3.52 The governance provisions in the draft Bill would place new duties on several public sector bodies, including PTAs and local traffic authorities. However, they would not have any direct effect on private sector bodies, large or small. DfT is consulting representatives of small business, including smaller

public transport operators, as part of the consultation on the draft Bill, and will reassess the likely impact the proposals may have on small firms in the light of their responses to the consultation.

### **Competition assessment**

3.53 The bodies directly affected by the proposals are all public sector ones – including PTAs and PTEs, and local authorities. Therefore, these should have no direct impact on competition.

### **Enforcement, sanctions and monitoring**

3.54 The governance proposals do not contain any directly applicable measures relating to enforcement and sanctions. They do, however, provide for the Secretary of State to direct bodies to undertake a review and publish the results. Where they fail to comply with this, enforcement would be through the courts. The draft Bill would also allow for the Secretary of State to issue guidance which areas must have regard to in carrying out their review and in publishing any scheme which requests that the Secretary of State introduce secondary legislation to implement legislative changes. Where an area's scheme failed to comply with this guidance, the Secretary of State would expect to take this into account in deciding how far to implement the legislative proposals contained in the scheme.

3.55 The draft Bill also contains provisions which could be applied through an order of the Secretary of State and which would enable a PTA, or a local authority exercising functions formerly those of a PTA, to enforce directions given to a local highways authority or local traffic authority.

3.56 More details will be given on monitoring arrangements in the full RIA accompanying future versions of the Bill.

## 4. Local road pricing schemes

### Title of measure

4.1 This partial Regulatory Impact Assessment (RIA) assesses the impact of local road pricing measures proposed in the draft Local Transport Bill.

### Introduction

4.2 The proposed provisions would revise the existing legal framework for the introduction of road pricing schemes in England and Wales as set out in the Transport Act 2000 and the Greater London Authority Act 1999.

4.3 There are two important general points to be made about regulatory impact at this stage:

- (i) the road pricing proposals in the draft Bill deal mainly with enabling provisions. Regulatory impacts will depend crucially on how those powers are used. Where the draft Bill contains or amends powers to make regulations, those regulations would be subject to separate impact assessments. Where local authorities use powers to introduce local road pricing schemes we are providing detailed guidance on the impact assessments to be undertaken; and
- (ii) the Government has offered significant financial support to local authorities to introduce other measures, especially public transport improvements, alongside local pricing schemes. The impact of the overall package will be very important.

4.4 The road pricing part of the draft Bill would support the Government's aim to tackle congestion by:

- providing a clearer framework within which local authorities can introduce local road pricing schemes. This includes empowering local authorities and giving them greater accountability and control at a local level; and
- ensuring that any local pricing schemes are introduced in a coherent and consistent way so that they are understandable for motorists, especially those that interact with more than one scheme.

4.5 While the existing legislation provides powers for local authorities to introduce local pricing schemes in their areas, it does not provide the powers that would be needed for a national system of road pricing. The draft Bill would not change this aspect of the legislation. We have made clear that it will be important to consider the evidence from local schemes before deciding whether to introduce a national road pricing scheme. If, in the light of that evidence, a decision were taken to introduce such a scheme, further primary legislation would be needed and there would be a full debate.



4.6 Local schemes will help to inform any future decisions on national road pricing. Ten local authorities or areas are currently exploring the potential for road pricing with the support of “pump priming” funding from the Department for Transport, in advance of bids for resources from the Transport Innovation Fund (see paragraphs 4.12 and 4.13). We would expect to receive the first scheme proposals from local authorities later this year, with local schemes possibly going live in four to five years, providing suitable proposals are put forward by local authorities. Analysis suggests that a national road pricing scheme could not be in place before the middle of next decade at the earliest.

### **Purpose and intended effect**

4.7 In developing the proposals, there are two important points that need to be highlighted:

- the Bill will not be creating an entirely new legal framework for road pricing. Rather it will be modifying the existing legal framework as set out in the Transport Act 2000 and the Greater London Authority Act 1999; and
- the nature of this legislation is enabling. It will be for authorities to develop proposals for road pricing schemes to deal with their local congestion problems, if they consider that to be the right approach in their areas. The impacts that flow are therefore dependent on the proposed schemes that are subsequently taken forward. However, evidence from the Road Pricing Feasibility Study, the Eddington report and limited experience from existing schemes shows that the benefits of well-designed road pricing schemes can be substantial.

#### **a) Current policy position**

4.8 The Government’s policy is to build additional road capacity where it is justified, taking full account of economic, environmental and social considerations. However, it believes that we cannot build our way out of congestion as it would be unaffordable and environmentally unacceptable.

4.9 Any attempt to move straight to national road pricing would be a complex and unprecedented project. In the first instance, therefore, the Government is working with interested local authorities to bring forward local schemes as local solutions to local problems. We expect any local authority interested in developing a scheme to do so as part of a package of measures, including significant investment in complementary transport measures.

4.10 The Secretary of State made a number of public statements over the course of 2005 and 2006 detailing this strategy, including:

- to use road pricing to tackle congestion in areas where it is already a problem today, or soon will be;

- to do so in a way that it allows us to pilot technology that could be used for a national road pricing scheme in the longer term; and
- to ensure that schemes are consistent and interoperable, and fit within any national framework to make them understandable and easy to use for motorists.

4.11 Sir Rod Eddington's report, *Transport's role in sustaining the UK's productivity and competitiveness: The case for action*, was published on 1 December 2006. The report highlighted road pricing as particularly effective in its potential to deliver economic benefits through reduced congestion and improved reliability. The pre-Budget Report in December 2006 re-iterated the Government's commitment to developing its transport strategy, including on road pricing.

4.12 The Government has announced that up to £200 million per year from 2008/09 to 2014/15 will be available from the Transport Innovation Fund (TIF) to support packages of measures to tackle congestion including road pricing. More may be made available if sufficient high-quality and higher-value schemes emerge. Local authorities will be able to bid for funding for innovative packages of measures including road pricing and complementary transport measures.

4.13 In advance of this, £18 million of 'pump-priming' funding has been made available to help local authorities to investigate the potential for demand management schemes. In total, ten local authorities or areas have received pump priming funds, and this is being used to understand the congestion problem in their area and explore potential solutions, including road pricing.

## **b) Policy objectives**

4.14 The key policy objective to be delivered through the road pricing part of the draft Bill is to facilitate local measures to tackle congestion, and through this to understand more about how road pricing could help tackle congestion more generally.

4.15 Depending on the detailed design of individual schemes and accompanying transport improvements, they can also help to improve local air quality and contribute to other environmental objectives.

4.16 The Transport Act 2000 already contains powers for local authorities to introduce pricing schemes. The 2000 Act was conceived against a background of interest from local authorities in developing local pricing schemes, but before serious consideration was being given to widespread road pricing. The legislation provides for the "appropriate national authority" (Secretary of State in England, or the Welsh Ministers in Wales) to approve scheme proposals, with regulation-making powers to cover areas such as charging, revenues, exemptions, enforcement, examination, and equipment standards.

4.17 The Government's focus now is to positively encourage schemes, for the benefits they will bring to local areas and for the lessons that can be learnt. It is important that road pricing schemes are part of locally developed packages to tackle congestion, that the case is made locally, and that schemes are 'owned' locally.

4.18 For these reasons there is a need to refine the current legislative framework in line with current policy on road pricing. The objectives for the legislation can be grouped under three key headings. These are:

- to better enable those local authorities interested in bringing forward local road pricing schemes to do so;
- to ensure consistency between schemes; and
- to facilitate the operation of schemes.

#### **Better enable those local authorities interested in bringing forward local road pricing schemes to do so**

4.19 The RIA for the Transport Act 2000 suggested that around eleven local authorities had expressed an interest in proposing a charging scheme to deal with a congestion problem. However, the number of schemes that have been implemented under this framework has been much lower. Only three schemes have been established under the existing framework: the London Congestion Charge (under the Greater London Act 1999), the charge at the Dartford-Thurrock river crossing and a scheme in Durham (both under the Transport Act 2000).

4.20 Therefore, the draft Bill proposes a number of measures that will better enable those local authorities interested in bringing forward local road pricing schemes to do so.

#### *Scheme approval process*

4.21 The Road Pricing Feasibility Study (2004) said that central Government could help by providing financial and political support for congestion charging schemes. The Transport Innovation Fund will provide substantial financial support.

4.22 Under current legislation it is more difficult for Government to encourage and support schemes because the Secretary of State has the function of approving schemes, and must exercise that function in a quasi-judicial fashion. This rules out taking a prior position in favour of individual schemes, either explicitly or implicitly.

4.23 By removing the approval role for a scheme by the Secretary of State, Government could offer greater support which will help provide clarity for local debate about scheme proposals, increase the likelihood of sound, locally-supported proposals being put forward, and reduce the uncertainty involved

in an approval process. Government will also be freer to offer practical advice. This approach is also consistent with Government's desire to give greater discretion to local authorities reflecting the position in the recent *Strong and Prosperous Communities* White Paper published by Communities and Local Government.

4.24 The approval role would be replaced by a system of checks and balances to ensure that powers are used appropriately. A crucial element of these checks and balances is the comprehensive guidance produced by the Department to help local authorities develop good quality schemes. The guidance covers areas such as scheme design, impact assessments and operations. The Department will work closely with authorities during the development process. As well as the guidance, regulations will be put in place where appropriate, as explained in chapter 5 of the consultation document.

#### *Role for Passenger Transport Authorities (PTAs) in pricing schemes*

4.25 A further set of measures would allow PTAs to be involved in the proposal and delivery of local road pricing schemes. The current approach under the Transport Act 2000 means that only traffic authorities may make (i.e. promote and run) schemes. PTAs are not traffic authorities and hence are not able to make charging schemes. Instead, the local traffic authorities in a former metropolitan area must group together and promote a scheme together.

4.26 The proposals in the draft Bill would allow PTAs to be party to a local road pricing scheme alongside individual local authorities. This would help to ensure co-ordination of schemes across local authority boundaries. It would also help provide a focus for political leadership. This is viewed as being important in taking forward a local road pricing scheme. According to a report by the Commission for Integrated Transport (CfIT)<sup>1</sup>, "a frequently stated success factor in road pricing schemes ... is the need for an influential champion". The leader could be a Mayor, as in London, but the report also highlights that transportation departments can also provide leadership sufficient to get a road pricing scheme off the ground – for example, the Trondheim scheme in Norway.

#### **Ensure consistency between schemes**

4.27 The Transport Act 2000 contained provision for the appropriate national authority to make regulations on certain standards, for example on equipment, enforcement, what the revenues can be spent on and the maximum level of charge. If the approvals process is changed so that the Secretary of State no longer approves a scheme in England, then central government will need to have alternative levers to ensure that any schemes implemented by local authorities are consistent and interoperable. Although many of the necessary

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<sup>1</sup> *World Review of Road Pricing Phase 1: Lessons for the UK*, Commission for Integrated Transport.

regulation-making powers are already in place under the Transport Act 2000, some broadening of these existing powers is proposed in the draft Bill. This will be important to help government ensure that any schemes are user-friendly, as well as reducing costs for operators and users in comparison to a series of varying schemes and standards. Subject to complying with any regulations that might be made under these powers, local authorities will retain flexibility to design schemes that take account of local needs and priorities.

4.28 The Government is also exploring the different functions that need to be carried out if local road pricing schemes are to operate successfully, and considering whether these functions should be carried out at the local or national ('common') level. Common components would enable functions to be carried out more efficiently, at the level most suited to the task. Some of these functions could move to the 'common' level if there were sufficient numbers of schemes established and would enable economies of scale to be achieved. It should be stressed that functions carried out at a national level do not necessarily need to be carried out by Government.

### **Facilitate the operation of schemes**

4.29 There are a number of operational road pricing issues that have arisen since the Transport Act 2000.

4.30 The first issue concerns the transfer of information and funds. Schemes in the UK will need to be able to share data and funds between themselves to be interoperable. The Driver and Vehicle Licensing Agency (DVLA) will need to be able to receive funding from schemes in return for providing information from its database. Schemes may need to transfer information and funds between themselves and an existing concessionaire.

4.31 Following the European Directive 2004/52/EC on the interoperability of Electronic Toll Collection Systems we are working with the European Commission and Member States to define the requirements which will ensure that schemes are interoperable across the European Union. Whilst this is work in progress, the transfer of information and funds would be a key component of EU interoperability.

### **c) Background**

#### *The existing legislative framework*

4.32 The existing legal framework for road pricing<sup>2</sup> in local areas is in the Transport Act 2000, the Transport (Scotland) Act 2001 and the Greater London Authority Act 1999.

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<sup>2</sup> Existing legislation and the draft Bill refer to "charging schemes". However, the term "road pricing" is commonly used to describe such schemes in the public debate, and so this chapter adopts a similar approach.

4.33 The **Transport Act 2000** provides local traffic authorities in England and Wales with the power to implement road pricing schemes on local roads, subject to the approval of the appropriate national authority. The power to introduce road pricing schemes on trunk roads is limited to structures such as bridges and tunnels over 600 metres in length, where the Secretary of State is able to propose a scheme, and situations where a local authority requests pricing on a trunk road in connection with a local scheme.

4.34 The **Transport (Scotland) Act 2001** provides local traffic authorities with the power to make road pricing schemes for local roads in Scotland.

4.35 The **Greater London Authority Act 1999** allows Transport for London and the London Boroughs to introduce road pricing schemes within Greater London subject to the approval of, or under direction from, the Mayor. However, the Mayor does require the approval of the Secretary of State for the general plan for spending the net revenues of a charging scheme.

#### *Background to the policy of road pricing*

4.36 Paragraphs 4.8 to 4.18 set out the general policy background. This section considers the issues in more detail.

4.37 Estimates suggest that, without further intervention, congestion will increase by 25 per cent by 2015. (There is a distinction between traffic, i.e. the volume of vehicles on the road, and congestion which is delay arising from increased traffic.) There are many social and economic trends that are driving this increase in congestion, but it is considered to be primarily a product of growing prosperity. The number of cars has increased substantially in recent years: there were nearly 33 million registered vehicles on the road in 2005, an increase of 7 million since 1996.

4.38 There are also social forces involved in the increase in congestion. The Labour Force Survey (2002) indicated that around 70 per cent of people in Great Britain travel to work by car. Car trips are increasing as a proportion of all trips and there is a slow but steady rise in the rate of single occupancy, particularly for commuting and business purposes. We are increasingly living further from our place of work, partly because we are less likely to move if we change jobs. The average length of commuting trips increased by about 16 per cent during the 1990s, to an average length of 8.5 miles in 2002. In addition, over the same period, the average shopping trip length increased by 20 per cent from 3.5 to 4.2 miles.

4.39 In terms of congestion, what matters is less the increase in traffic itself than the fact that too many people want to use certain roads at certain times of day. This is especially true in urban areas where residential, employment and educational centres coincide.

4.40 Road pricing is being considered across the world as a potentially effective solution to the problem of congestion. In the UK the London



congestion charge is well established and has significantly reduced congestion. (For a note on the London and Durham schemes see the appendix). Elsewhere in Europe, the trial congestion scheme in Stockholm, which ran from 3 January to 31 July 2006, saw significant reductions in congestion, of between 20 and 25 per cent<sup>3</sup>. Similar demand management measures in the USA, Singapore and Australia have also proved successful.

4.41 Internationally, demand management is becoming an increasingly important tool for local authorities in their transport strategies to tackle their congestion problems. Economic growth and regeneration is increasing traffic levels in some areas to the point where congestion is in danger of constraining further growth. In the UK, a number of areas are developing proposals for potential local road pricing schemes alongside complementary investment in public transport to help them to achieve their economic, environmental and social objectives.

#### *Road Pricing Feasibility Study (RPFS)*

4.42 The RPFS was undertaken in 2003-04. The study group comprised a number of external stakeholders, with the Department for Transport providing support, especially in the form of analytical capability. The RPFS considered whether it would be feasible to change the way we pay for roads, so as to bring about a more efficient and less congested roads system. Forecasts using the National Transport Model suggest that a well-structured national road pricing scheme has the potential to cut congestion by nearly half with a reduction of 4 per cent in traffic, and achieve £10 billion worth of time savings a year (at 2010 traffic levels) in Great Britain. This figure could rise to as much as £12 billion a year if a value is added for journey time reliability.

4.43 The Study said that the technology for a national scheme on every road, with charges varied according to the congestion on the road, would not be ready until 2014 at the earliest. In the meantime, the study suggested that “pathfinder” schemes, with complementary public transport measures, could help to inform a public debate. These schemes would address existing or emerging congestion problems and help us to improve our knowledge of road pricing.

#### *Eddington Review*

4.44 Recent Departmental work published in the Eddington study updated the results of the RPFS, forecasting over a longer horizon and giving further detail about the sources of the benefits. The benefit of road pricing is forecast to increase over time reflecting the increase in traffic levels between 2015 and the new work’s estimates for 2025.

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<sup>3</sup> <http://www.stockholmsforsoket.se>



4.45 With the additional congestion foreseen by 2025 without intervention, the total time lost to all road users when monetised (including commuters and those travelling for non-work purposes) using relevant DfT appraisal values of time, is estimated to be around £24 billion.<sup>4</sup>

#### *Rationale for government intervention*

4.46 In summary therefore, the rationale for Government intervention, through changes to existing legislation, is to create the conditions for local authorities to develop packages of measures to tackle congestion, including road pricing, while ensuring an appropriate level of consistency between them. This will increase the likelihood of effective pricing schemes to tackle congestion where it is a problem now or soon will be, and offer lessons for future decisions on more widespread road pricing.

## Consultation

### **a) Within government**

4.47 Consultation is ongoing with Government Departments, and views have been received from the following government departments:

- Cabinet Office
- Communities and Local Government
- Environment, Food and Rural Affairs
- Health
- Trade and Industry
- Treasury

4.48 Departmental agencies notably the Highways Agency and the DVLA are involved in the Department's work on road pricing.

### **b) Public consultation**

4.49 The Road Pricing Local Liaison Group has been formed to maintain a formal channel of communication between the Department and the officers of those local transport authorities which the Department considers are at the forefront of developing the road pricing agenda. As well as English local authorities, Transport for London, Cardiff Council, the Welsh Assembly and the Scottish Executive are invited to the group.

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<sup>4</sup> <http://www.hm-treasury.gov.uk>

4.50 Consultation is ongoing with a wide range of interested groups, including members of the business and retail sectors, motoring organisations, environmental bodies, privacy groups, and many others, to gain their views and the benefit of their expertise.

4.51 Over the last year we have spoken to a number of different organisations representing the interests of business groups and the retail sector including the Confederation of British Industry, the British Chambers of Commerce, the Institute of Directors, the Federation of Small Businesses, and the John Lewis Partnership. We were also in contact with the RAC Foundation as they finalised their report *Motoring towards 2050 – Shopping and transport policy* which they developed in partnership with the British Retail Consortium, to understand what impact road pricing and other transport policies might have, or need to have, to preserve the economic vibrancy of local areas.

## Options

4.52 The objective of the policy is to tackle congestion. Many studies, most recently the Eddington Report, stress the significant potential of road pricing to address the economic costs that congestion imposes. However, the public are sceptical. Despite this, doing nothing is not an option. In spite of record sustained investment in transport, congestion is predicted to get significantly worse over the coming years, which will lead to costs to the economy and environment.

4.53 Therefore, in the first instance, the Government is working with interested local authorities to bring forward local schemes as local solutions to local problems.

4.54 The question for the Government, in considering how to support any local authority interested in bringing forward such a scheme, is whether this could be done within the existing legislation or whether it needs to be changed. Much of this debate has been rehearsed above but in summary:

### **Option to do nothing – leave the legislative framework as it is**

4.55 This would mean the legislative framework remains as set out in the Transport Act 2000 and the Greater London Act 1999. Under this option schemes could still come forward. However, to date only three schemes have been implemented under these Acts. The Government believes that it needs to be better placed to support local proposals than existing legislation allows, to maximise the scope to achieve congestion benefits. There would also be insufficient scope for government to ensure that different schemes are consistent and interoperable, which would mean higher compliance costs than necessary, particularly for road users who interact with multiple schemes.

### **Option to change the legislative framework**

4.56 The changes described above are designed to address these concerns and should provide an appropriate legal framework for local pricing schemes.

## Sectors and groups affected

4.57 The consultation on the draft Bill invites views on the likely impacts on different sectors and groups, which includes the full range of road users. Proposals for local schemes will require local assessment, and we encourage engagement with sectors and groups at this level, for example, those that have accessibility difficulties. For some groups there are legal requirements to assess impacts. These must of course be respected. The Department will continue to engage at a national level with key stakeholders.

4.58 It should be stressed that the impacts arising directly from the provisions in the draft Bill would be limited, given the nature of the changes being proposed. The key impacts will arise from local charging schemes which could be implemented under current legislation. Nevertheless this section considers those impacts. The impacts on groups and sectors will be dependant on the design of the individual local schemes that are brought forward. The guidance that the Department has produced will encourage local authorities to consider the impact that scheme design will have on specific groups, particularly those such as low-income households. Again, it will be important for local authorities to consider the impacts of the overall package developed – which we would expect to include improvements to public transport alongside any local road pricing scheme.

4.59 The following costs and benefits section further discusses those groups and sectors that are likely to be affected by local schemes, which will of course be dependent on the design of the scheme. In consulting on and developing schemes, local authorities will be expected to consider the potential impacts of different options on different sectors and groups.

## Costs and benefits

4.60 It is not possible at this stage to make quantified estimates of the costs and benefits of the potential proposals. That will depend on the detailed design of individual schemes. However, it is possible to identify the nature of the benefits, and where the costs may arise. We can draw on theoretical evidence from the Road Pricing Feasibility Study, to draw inferences about the likely balance between benefits and costs in any future schemes. We can also consider practical evidence from existing schemes. However, when drawing on experience, it must be remembered that each existing scheme has been developed to deal with local issues, considering factors and variables that are relevant to that particular area.

4.61 The cost to the citizen and private and voluntary sectors would be dependent on the prices set for the roads they use, and the response to those prices and any exemptions and discounts applied. For many there will be alternatives to consider such as car sharing, public transport or changing journey time. The cost would also depend on the number and size of

schemes. The intention, in changing the legislative framework, is that government would be better able to support those authorities that want to come forward. It is not possible to say how many local schemes will be brought forward under the legislation but there are ten local authorities exploring the potential for implementing a local scheme with the support of “pump priming” funds provided by DfT.

4.62 The following paragraphs consider benefits and costs in more detail.

#### **a) Benefits**

4.63 The quantified benefits from road pricing mainly arise from time savings through reduced congestion. Depending on local scheme design, schemes could deliver a variety of secondary benefits, which might include reductions in emissions that contribute to poor local air quality and climate change.

4.64 The RPFS suggested that charging in London and major conurbations alone could cut total traffic congestion across the country by a quarter in 2010 with time savings worth up to £6.4 billion a year.

##### *(i) Business*

4.65 We would expect businesses to benefit from journey time savings and improved reliability, which in many cases can lead to cost savings (see below under freight).

4.66 The Eddington report stated that the increase in time lost due to rising congestion between 2003 and 2025 for business alone (including freight) is estimated to be worth around £10 billion to £12 billion a year by 2025. This is a direct cost to the economy. A well-designed scheme would see the benefits of reduced congestion, plus the benefits arising from the local authority’s application of the revenues to improve local transport, offsetting the cost of the charge itself. It should be possible for businesses to translate time savings into cost savings in many cases. This should help offset the costs of the charge. The extent to which this is the case will depend on the nature of the business.

4.67 Local authorities will be expected to consult with small businesses that could potentially be affected by any pricing scheme.

4.68 **Freight and delivery companies** operating in the area of a local scheme should experience benefits from pricing schemes, particularly where journey times are significantly reduced allowing better vehicle utilisation, lower fuel consumption etc. Greater reliability for delivery and collection times should bring benefits to these companies, and to the businesses they serve. We would expect the greatest benefits to arise where deliveries and collections are time-critical from the customer’s perspective.

4.69 In a similar vein, **businesses and tradespeople providing services to**

**customers in their homes** should benefit from reduced travel time, and hence have a greater proportion of their working day available to meet their customers' needs. Increased journey time reliability should also help to reduce frustration for customers waiting for tradespeople to arrive.

4.70 Similar benefits should be available to public sector workers such as doctors on call and professional carers.

4.71 Depending on the design of complementary transport measures, **retailers** within the area of a local scheme could also benefit from increased footfall resulting from improved access to their areas by public transport, and from a more attractive local environment for shoppers if levels of road traffic are reduced.

*(ii) Safety and pedestrians*

4.72 In London, the provisions for pedestrians were improved as a result of the reduction in congestion. Therefore, there are potential safety benefits for those who chose to walk within a scheme area, given that there is a high probability that a scheme will be in close proximity to shopping and amenity areas. Pricing schemes may also encourage some people to walk or cycle for short journeys, in preference to using their cars, and may therefore deliver associated health benefits.

4.73 A reduction in road traffic accidents is possible and the resulting injuries and deaths where a local scheme is implemented. This could be due to a possible reduction in traffic volume, improved public transport, and increased provision for pedestrians, all of which will be dependent on the individual local scheme design.

*(iii) Public transport*

4.74 A major benefit of a road pricing scheme would come through increasing the reliability of private and public transport. The draft Bill would retain the requirement for revenues from local road pricing schemes to be spent on transport-related purposes. The associated benefits of reducing congestion and increasing the standard of public transport give particular benefit to those who rely on public transport to get around. This can include older people and those with disabilities, those with low incomes and those who do not own motor vehicles (see Chapter 2).

4.75 In London, around £122 million net revenue for the financial year 2005-06 was generated by the scheme (provisional figures). This revenue has been invested to improve the bus network and to fund other transport improvements. One of the results was that excess waiting time for bus users fell by 30 per cent in the first year and 18 per cent in the second year.

4.76 Those schemes that receive Transport Innovation Funding will be developing demand management proposals that include improvements to public transport and road pricing schemes to benefit the local area. Outside of London, people from low-income households and older people are disproportionately high users of public transport.

4.77 In London, after the first year of charging there was an increase of 37 per cent in the number of passengers entering the charging zone by bus during charging hours. Around half of this was assessed to have been as a result of the scheme, and the other half due to a background trend of growth.

*(iv) Social*

4.78 The aim of a road pricing scheme is to produce overall benefits to transport users and the community. But it would inevitably affect different road users in different ways, depending on their travel patterns and the extent to which they are able to modify their behaviour in response to pricing signals. It will be important to ensure that any local scheme design takes fully into account the likely effects on different social groups.

4.79 The RPFS acknowledged that motorists are not a homogeneous community in terms of behaviour. Social and geographical factors are prime examples. People from lower-income households or those living in more disadvantaged communities are less likely to travel by car on their regular journeys, and also tend to travel shorter distances than those from higher-income households or less deprived areas. Therefore a package of measures that includes public transport improvements alongside a pricing scheme may well benefit low-income households, but this will naturally be dependent on the scheme design. It will be important for local authorities to give full consideration to the effects on all groups and sectors so that the maximum benefits are secured.

4.80 A carefully structured scheme could provide positive benefits for groups that suffer from social exclusion or limited accessibility by a number of means. For public transport users, these could include reducing the costs of finding and travelling to work, and of travelling to health and educational institutions. It would be expected that the better off would experience larger absolute commuting cost increases than would the lower-income groups, because of greater trip lengths and a higher propensity to use private cars.

4.81 Any local schemes developed in urban areas should also take into account the impact on residents of surrounding rural areas. Rural communities are less likely to be served by frequent public transport and as such may be more reliant on the car for means of travel. Guidance already issued to local authorities refers to the need for consultation of neighbouring local authorities, which will be important in considering rural needs.



4.82 Many disabled people are entitled to parking concessions through the blue badge scheme, reflecting the real difficulties that some disabled people have in using public transport. Exemptions and discounts for groups is a sensitive issue and local authorities will need to consider this in developing their schemes. As mentioned, comprehensive guidance is being produced by the Department, and will include exemption and discount issues. Disabled people could benefit from schemes if accessibility to public transport is improved as a result. Local schemes may also include investment to redesign streets, so as to reduce barriers for disabled people.

4.83 Minority groups are more likely to use public transport in urban areas, and will therefore experience the benefits of public transport improvements. The ethnic mixes of communities and their transport needs are sometimes not catered for appropriately by public transport. Cultural and language barriers would need to be considered in changes to public transport, as well as the road pricing scheme as a whole.

*(v) Environment*

4.84 Although the principal focus of this legislation is to tackle congestion, the RPFs showed that a secondary benefit of road pricing schemes could be to reduce emissions of carbon dioxide and local air pollutants. This could be by as much as 5 to 10 per cent. Improvements to local air quality in urban areas can particularly benefit lower-income households: evidence published by Defra<sup>5</sup> shows that, in England, the least affluent members of society tend to be exposed to the highest levels of air pollution.

4.85 The experience in London is that the impact of charging on traffic is estimated to have reduced emissions of NO<sub>x</sub> by about 8 per cent within the charging zone, and unchanged on the inner ring road. There has also been a 7 per cent reduction of PM<sub>10</sub> (Particulate Matter – annual average for 2003) within the charging zone. Improvements in vehicle technology have provided further reductions.

4.86 The potential for environmental benefits for individual schemes will depend on their detailed design, including whether authorities choose to vary charges according to vehicle emissions, but are difficult to predict. The Department would expect local authorities to fully assess the impact on health and the environment that local schemes would have.

**b) Costs**

4.87 As stated previously it is not possible to be certain about the costs and benefits of future road pricing schemes until real schemes are proposed. However, we are able to draw on the limited experience of schemes already in operation, to build up an idea of the scale and range of the impacts.

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<sup>5</sup> *Further analysis of NO<sub>2</sub> and PM<sub>10</sub> air pollution and social deprivation*, A report produced for Defra, the National Assembly for Wales and the Department of the Environment in Northern Ireland, December 2001. *Air Quality and Social Deprivation in the UK*, AEA Energy and Environment, July 2006, [www.airquality.co.uk](http://www.airquality.co.uk).



4.88 There are different types of costs arising from a road pricing scheme. These include the cost to the road user (who could be a citizen or a private sector business), the cost of setting up the road pricing scheme (for example, the technology) and the cost of running the scheme once in operation. The cost to citizens, businesses and others will be dependent on the scheme design and price set.

4.89 Schemes will be implemented against guidance set out by the Department. Those which come forward with the benefit of Transport Innovation Funding will be appraised against the TIF guidance, against the appropriate value for money and suitability checks.

*(i) Cost to the public sector*

4.90 The cost signal to the citizen is central to changing behaviour and travel patterns, therefore reducing congestion. However, consistency and interoperability between schemes is important in reducing any costs that road users will incur when travelling through more than one scheme.

4.91 The costs to the public sector would also concern the cost of setting up a scheme (technology, equipment) and the cost of running a scheme when in operation. These would also vary enormously depending on the type and number of schemes approved. There is clear potential for private sector involvement, and this will be fully investigated.

4.92 We would also be able to establish common components, for example setting standards for equipment or procuring functions that can be carried out at a national level for a number of schemes. This potentially achieves savings through economies of scale, although this would be dependent on the number of schemes that came forward.

*(ii) Cost to business*

4.93 Any local road pricing scheme brought forward will likely see additional headline costs for local businesses operating within or close by, for making deliveries and running other work related vehicles. These may be offset by the benefits of more efficient journey time and reliability as discussed. This is more likely to be the case for larger companies, for whom benefits may be more readily identifiable. The guidance encourages consultation with businesses, including small businesses, as schemes are developed.

4.94 The extent to which individual businesses will incur increased costs will depend on their existing travel patterns, and the degree of flexibility they have to adjust the times at which they travel. The impact on frequent business travellers will depend on the design of charging schemes (e.g. whether there is a single daily charge, or an event-based charge that could be triggered several times in a single day), and local authorities should consider this as part of their overall scheme design.

4.95 **Freight operators and delivery companies** are likely to incur charges, not least because in many circumstances there is limited flexibility as to the times at which deliveries can be accommodated. However, as noted under ‘benefits’, these businesses are also likely to place a high value on journey time savings and increased reliability.

4.96 **Businesses and tradespeople providing services in customers’ homes** are also likely to incur charges, though in some circumstances there might be scope to adjust working hours to avoid driving in the most congested periods. The scope for this might be greater where schemes involve different charge rates being applied at different times of the day, rather than a single flat rate throughout.

4.97 The main effects on **retailers** are likely to be indirect, through any impacts on their customers, employees and suppliers. This could be positive or negative, depending on the location of the individual business (e.g. inside or outside a charging zone); the extent to which any reduction in custom from motorists affected by the pricing scheme might be offset by new custom from others (e.g. public transport users attracted to better public transport services as part of the package of measures alongside the pricing scheme); and the extent to which deliveries by suppliers are, or can be, made outside of those times when the pricing scheme applies.

4.98 It would be important for local authorities to consider the impact on particular sectors and businesses as part of their overall assessment of the costs and benefits of implementing a pricing scheme in their areas. The Department is encouraging local authorities to work with businesses and discuss these issues during the development and consultation of a scheme.

4.99 An independent review of the economic and business impact from the £5 London Congestion Charge concluded that the impact on the central London economy was broadly neutral. This was despite the introduction of the charge coinciding with an economic slowdown and the London bombings in 2005<sup>6</sup>. Analysis of several different indicators of economic performance, including measures of business population and turnover, profitability and property market trends did not reveal evidence of a significant congestion charging impact. But the analysis also noted that the impact on business would take longer to determine than any impact on traffic and travel patterns.

4.100 The fourth annual review of the London Congestion Charge identified that “it is difficult to separate out a potential ‘congestion charge effect’ from any other influence on the economy” and that there “must exist notable shifts in relative trends around the period of the introduction of the charge in early 2003 in order to say that there is likely to have been an impact of the £5 charge on business activity”<sup>7</sup>.

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<sup>6</sup> *Transport for London Congestion Charging Monitoring Fourth Annual Report, June 2006.*

4.101 The economy in London's boundary case study<sup>8</sup> is "characterised by small businesses" and shows no noticeable impacts to small businesses – "VAT registrations show that the number of businesses operating in the area both inside and outside the charging zone was unaffected by the introduction of charging, and independent data show that there has been steady growth in sales since the introduction of charging". However, factors in any other conurbations that bring forward schemes, such as public transport provision, may be very different from those in London. Local authorities will need to consider this as part of their scheme development.

### **c) Summary**

4.102 This section has discussed the potential costs and benefits of schemes, based on feasibility studies and limited experience from existing schemes. Actual costs and benefits will become apparent once local schemes are developed and brought forward. It will be for local authorities, empowered to develop the schemes appropriate for their area, to assess the impacts and deliver the required benefits, based on the guidance produced by the Department.

### **Small firms impact test**

4.103 Initial conversations have been held with the Small Business Service and key business representative groups with particular small business interest. The consultation on the draft Bill provides the opportunity to gather a wider range of views from the small business community.

4.104 The Transport for London report on the London Congestion Zone concluded that there was no strong evidence that congestion charging has disproportionately affected any particular size of business in the charging zone and that sales revenue for smaller businesses has actually grown faster in the charging zone than elsewhere in London

### **Enforcement, sanctions and monitoring**

4.105 Whilst the main aim of the policy is to empower local authorities and encourage local schemes, it is important that consistency and interoperability between schemes is monitored, and the details of schemes are transparent to the general public and central government. A series of checks and balances will be put into place to ensure that local authorities make appropriate use of the powers given to them, and the schemes remain within the guidelines put in place.

4.106 General guidance has been developed on road pricing, for instance on systems and operations, for local authorities in advance of the submission of business cases for the Transport Innovation Fund, and for the development of

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<sup>7,8</sup> *Transport for London Congestion Charging Monitoring Fourth Annual Report*, June 2006.

schemes. This is important for areas where consistency is necessary but some local flexibility in approaches might be acceptable.

## APPENDIX

### The London Congestion Charge

The London congestion charge is an area scheme using Automatic Number Plate Recognition (ANPR) to detect vehicles within the charging zone. The scheme was extended to part of West London in February 2007.

Since it came into operation in 2003, the London Congestion Charge has continued to meet its principal traffic and transport objectives which are: to reduce congestion; to make radical improvements to bus services; to improve journey time reliability for car users; and to make the distribution of goods and services more efficient.

The London Congestion Charge Fourth Annual Report (2006)<sup>9</sup> stated that reductions in congestion inside the charging zone over the whole period since the introduction of the scheme now average 26 per cent. There has also been an increase in the supply of buses of between 10 and 20 per cent and bus patronage has increased by a third since 2000-01.

### The Durham scheme

The Durham scheme is a cordon charge in the historic city centre designed to maintain the historic environment and improve the city for pedestrians. Since it came into operation in 2002, it has produced a number of benefits to the charging area, including:

- reduction of 85 per cent in vehicular traffic – from over 2,000 to approximately 200 vehicles a day;
- reduced vehicle emissions;
- a 10 per cent increase in pedestrian activity – each day between 13,000 and 19,000 pedestrians use the same stretch of road, which is wide enough for just one vehicle at a time;
- a steady increase in use of the Cathedral Bus service; and
- a limited impact on businesses: the vast majority (83%) have not altered their servicing arrangements following introduction of the charge.

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<sup>9</sup> *Transport for London Congestion Charging Monitoring Fourth Annual Report*, June 2006.

## 5. Senior traffic commissioner

### Title of proposal

5.1 Creation of a new statutory post of senior traffic commissioner, with powers to issue directions and guidance to other traffic commissioners.

### Purpose and intended effect

5.2 This Regulatory Impact Assessment covers the proposal to strengthen the powers of the senior traffic commissioner (“STC”) by creating a statutory post and providing new powers to issue directions and guidance to the other traffic commissioners. We have identified a need to improve consistency among the regionally-based traffic commissioners in the delivery of the proposed measures in the draft Local Transport Bill to improve bus punctuality, the subject of a separate RIA. This proposal should help to meet this need and also lead to better regulation of the bus and road haulage industries generally.

#### a) Objectives

5.3 The key objective for the legislation is to promote greater consistency among the traffic commissioners, which should assist them in undertaking their proposed strengthened role in relation to bus punctuality. Poor punctuality of bus services works against the Government’s objective of promoting bus usage. Improving punctuality will make bus travel more attractive and support the Government’s wider objectives of tackling congestion and improving public transport.

5.4 Inconsistencies in approach between different traffic commissioners are a long-standing concern of the road haulage industry and the proposals will also help to address this concern.

#### b) Background

5.5 Traffic commissioners are responsible for the regulation of the road haulage and passenger transport industries. Their prime function is the licensing of operators of heavy goods vehicles and public service vehicles. The licensing system is regionally based, with one traffic commissioner appointed to each of eight traffic areas. Each commissioner is responsible for licensing operators based in his or her traffic area. The commissioners are appointed by the Secretary of State for Transport but are office holders independent of Government. When conducting public inquiries they act as single-person tribunals under the supervision of the Council on Tribunals. They are supported by administrative staff in the Vehicle and Operator Services Agency (VOSA). Powers are also available to appoint deputy traffic commissioners.

5.6 The Government recognises that the traffic commissioners have been effective at meeting Departmental objectives, primarily road safety, and are regarded favourably by both the industries they regulate and the wider public. Their independence from Government and external influences has created confidence that licensing decisions are fair and impartial. However, we are aware of concerns about inconsistencies between the approaches taken by different commissioners. These concerns relate to both decisions and working procedures. When the regional system was set up 75 years ago, most operators were small and based in one area of the country. Today, the industries are more dominated by large logistics companies and bus operators who expect a national system with consistent standards and procedures.

### **c) Rationale for government intervention**

5.7 A number of administrative changes have been made or are in hand which are designed to streamline the operation of the system and promote consistency. However, the individual commissioners are keen to safeguard their independence and inconsistencies remain. Although it may be possible for aggrieved operators to get an inconsistent decision overturned on appeal this is a time consuming and costly process. Refusal by individual commissioners to adopt common working practices is jeopardising the delivery of VOSA reforms to licensing administration procedures. We have therefore concluded that changes to the system should be made so that the commissioners function more as a collective national body. Addressing these concerns will become more important if the commissioners are to be given a stronger role in relation to bus punctuality performance.

## **Consultation**

### *Within government*

5.8 Consultation within Government has been ongoing involving VOSA, the current STC and the Department for Constitutional Affairs.

### *Public consultation*

5.9 There has been no public consultation so far, but the issues highlighted above have been frequently raised by the haulage and bus sectors. We therefore expect these industries to support the proposals.

5.10 The draft Bill provides the opportunity for full public consultation with interested parties.



## Options

### Option 1: Do nothing – leave the legislative framework as it is

5.11 At present, one of the traffic commissioners is appointed by the Secretary of State as STC. This is an administrative, rather than statutory, appointment and the role of the STC is to act as a co-ordinator for the commissioners in their dealings with Government and other stakeholders. This role extends to promoting good practice and consistency among the commissioners but, as the appointment is only administrative, it carries no formal powers. The STC's ability to deliver change is therefore limited. Progress has to be achieved by negotiation and persuasion, and individual commissioners can and have blocked reforms supported by the majority.

5.12 The current legislation provides a power for the Secretary of State for Transport to issue general directions to traffic commissioners. This has only been used once when the commissioners were first established (in 1931). Directions can only be general in nature. Use of this power could compromise the commissioners' independence from Government. Also, there is a risk that use of this power might cause conflict with Article 6 of the European Convention on Human Rights. We do not therefore propose to make use of this power.

### Option 2: Voluntary measures

5.13 The only available voluntary measure is the one that currently exists with an administrative STC appointment and reliance on the STC's powers of persuasion over the other traffic commissioners. As explained above this has not been effective in delivering desired changes.

### Option 3: Change the legislative framework

5.14 We propose to create a new statutory appointment for the STC. The appointment would be for a fixed period (it is currently four years) with the possibility of, but not a right to, renewal. Proposals in the draft Bill would provide powers for the STC to issue *general directions* to the other commissioners which they would be obliged to follow. This would preserve the commissioners' collective independence from Government but would enable the STC to impose common working procedures. The STC would be required to consult the other commissioners and other stakeholders and interested parties, before making directions. In practice, the existence of the power should make it easier for the STC to progress change by negotiation.

5.15 Because of the traffic commissioners' quasi-judicial status, it would be inappropriate for the STC to issue directions on matters such as the interpretation of the law or sanctions to be applied for non-compliance. At present, traffic commissioners produce what are known as "practice directions" which give guidance on such matters. Because of the need to secure agreement of all commissioners, producing these directions can take a

long time or the directions tend to be limited or vague. We therefore also propose to give the STC power to issue guidance to the other commissioners who would be required to have regard to it in the exercise of their functions. This guidance would be published and a failure to have regard to it would be a ground for appeal to the Transport Tribunal.

5.16 As we do not propose to make use of the existing power for the Secretary of State to issue general directions to the traffic commissioners, we propose to repeal it. However, circumstances may arise where it is considered appropriate for the STC to be given a central steer. The draft Bill would therefore provide a power for the Secretary of State to issue guidance to the STC on the exercise of his or her functions, and would require him or her to have regard to it.

## Costs and benefits

### a) Sectors and groups affected

5.17 Sectors and groups most likely to be affected by the proposals include:

- road haulage industry;
- bus industry;
- bus passengers; and
- traffic commissioners and the Vehicle and Operator Services Agency (VOSA).

### b) Benefits

5.18 The road haulage and bus industries would benefit from a more consistent national regulatory system. Inconsistencies in decision making lead to uncertainty and procedural differences can impose administrative burdens. The potential benefits have not yet been quantified. We will seek industry's views during the consultation process.

5.19 The separate proposals for improving bus performance would benefit bus passengers and measures to promote greater consistency would help to ensure the effective delivery of these proposals.

5.20 The proposals would assist VOSA in the delivery of reforms to the administration of the operator licensing system and lead to reduced administration costs. These have yet to be quantified. They should make it easier and less time consuming for the STC to discharge his or her functions.

### c) Costs

5.21 There should be no significant net cost implications to either the road haulage or bus industries from this particular proposal. We will seek the industries' views on this as part of the consultation although the effects may be very difficult to quantify in advance.

5.22 We do not envisage any significant additional costs for either the STC or the other commissioners from drawing up and implementing directions or guidance. The new powers are intended to speed up the negotiation process for implementing changes and should produce an overall saving. We do not envisage a need for any additional resources to support either the STC or other commissioners as a result of these particular proposals.

### **Small firms impact test**

5.23 We would not expect any adverse impacts on smaller firms and the public consultation on the draft Bill itself will provide the opportunity to confirm this expectation.

### **Competition assessment**

5.24 More consistent application of standards should ensure fairer competition between operators based in different parts of the country.

### **Enforcement, sanctions and monitoring**

5.25 The proposals only place powers and duties on traffic commissioners and the Secretary of State. The question of enforcement against industry or the public does not arise.

5.26 We are assuming that the traffic commissioners, as quasi-judicial officers, will comply with directions and guidance that may be issued by the STC.

5.27 We will monitor the effects of the new powers by obtaining feedback from industry, the traffic commissioners and VOSA.

Printed in the UK by The Stationery Office Limited  
on behalf of the Controller of Her Majesty's Stationery Office  
ID 5526327 05/07 368149 19585