



Llywodraeth Cymru  
Welsh Government

# **BUS SERVICES (WALES) BILL**

**Explanatory Memorandum**  
incorporating the  
**Regulatory Impact Assessment and  
Explanatory Notes**

***March 2020***

# **Bus Services (Wales) Bill**

## **Explanatory Memorandum to Bus Services (Wales) Bill**

This Explanatory Memorandum has been prepared by Department of Economy, Skills and Natural Resources of the Welsh Government and is laid before the National Assembly for Wales.

## **Member's Declaration**

In my view the provisions of the Bus Services (Wales) Bill, introduced by me on the 16 March 2020, would be within the legislative competence of the National Assembly for Wales.

## **Ken Skates AM**

Minister for Economy and Transport  
Assembly Member in charge of the Bill

16 March 2020

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## **PART 1 – EXPLANATORY MEMORANDUM**

### **1. Chapter 1 – Description**

- 1.1 The Bus Service (Wales) Bill will make changes to the legislative framework relating to the planning and delivery of local bus services in Wales. It will amend the existing legislative provision and provide local authorities with an improved range of tools to consider using when planning and delivering local bus services. The Bill will put in place new information sharing arrangements.

## **2. Chapter 2 – Legislative Competence**

- 2.1 The National Assembly for Wales ("the Assembly") has the legislative competence to make the provisions in the Bus Services (Wales) Bill ("the Bill") pursuant to Part 4 of the Government of Wales Act 2006 ("GoWA 2006") as amended by the Wales Act 2017.

### **3. Chapter 3 – Purpose and intended effect of the provisions**

#### **3.1 Background**

##### **3.1.1 Importance of bus services in Wales**

3.1.2 The transport network underpins our daily lives, connecting people and communities to jobs, health services, educational opportunities and leisure activities. A modern public transport system should be accessible, affordable and integrated, providing choice and opportunity as a viable alternative to the private motor car.

3.1.3 The Welsh Government's ambition is to provide a joined up public transport network that is safe, reliable, punctual, environmentally sustainable, accessible and responds to meet the needs of the travelling public. Bus services need to meet the specific needs of each locality and, by stimulating patronage, connect more people to reduce reliance on private cars.

3.1.4 Bus services across Wales provide important access to education, training, work, healthcare, social activities and the opportunity to simply enjoy a day out and about. They are an essential part of the community and social interaction; and support improved health and activity by being part of the network of more sustainable and healthy modes of transport (walking, cycling and public transport).

3.1.5 Bus services provide that vital link between our communities and are an important tool in ensuring a vibrant economy. They support the tourism industry by providing access to many attractions across the country.

3.1.6 In *Prosperity for All: A Low Carbon Wales*<sup>1</sup>, the Welsh Government recognises that “the most effective way of reducing CO2 emissions in the near term will be to replace car journeys with those using the existing public transport system and active travel.”

3.1.7 The 2011 Census showed that 23% of the population of Wales had no access to a car or van, and many people rely on bus services for travel to work, for hospital appointments, visiting friends, shopping and accessing leisure services.

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<sup>1</sup> <https://gov.wales/prosperity-all-low-carbon-wales>

3.1.8 Transport is integral in achieving the objectives set out in the Well-being of Future Generations (Wales) Act 2015 (“the 2015 Act”) and can help by connecting people to jobs, healthcare and by helping to address air quality and climate change issues. The Bus Services (Wales) Bill plays an important part in supporting the general principle of the 2015 Act, which is about making positive interventions now in order to benefit people living their lives in Wales in the future. The Bill will contribute to each of the 2015 Act’s seven goals and the Bill has been developed, and continues to be developed, in accordance with the five ways of working, with a focus on the long term, prevention, integration, collaboration and involvement. The Bill will assist in addressing key challenges and issues in Wales, spanning:

- matters of equality and access to communities, facilities and services;
- impacts on the Welsh language through better connectivity and improved information provision;
- health benefits linked to travel choices and access to key services, leisure, recreation and employment;
- improved long term economic outcomes from better access to education, jobs and training opportunities through sufficient transport infrastructure and services; and
- promotion of a change in travel mode from private car to public transport, helping to promote environmental sustainability.

### **3.1.9 Commercial and Subsidised Services**

3.1.10 The bus services operated and provided across Wales are a mix of commercial and subsidised services.

3.1.11 Commercial services are those which are provided at the operational cost of the operating bus company, with the exception of a penny per commercial kilometre contribution from the local authority through the Bus Services Support Grant (around £15m) provided to them by the Welsh Government.

3.1.12 Predominantly commercial bus services are operated along main strategic bus routes and in areas of high population. Commercial bus

services normally provide a commercial profit to the bus company which in turn ensures their continued viability and sustainability.

3.1.13 Commercial bus services also receive revenue foregone in exchange for the free carriage of passengers who benefit from the mandatory concessionary fare scheme for Wales on a “no better or worse off” principle to the bus operator. Commercial bus services also receive revenue foregone for tickets purchased under the mytravelpass scheme, which provides eligible persons (people aged 16-21 years) with a one-third discount off the equivalent adult bus fare.

3.1.14 Since the introduction of the Transport Act 1985, bus companies have been free to register the operation of commercial bus services as they see fit, provided they meet the requirements set by the Traffic Commissioner.

3.1.15 Local authority subsidised services – section 63(1) of the Transport Act 1985 places a duty on local authorities to secure the provision of public passenger transport services which would not otherwise be provided (i.e. socially necessary services). Section 63(5) enables a local authority to enter into an agreement to pay a subsidy for such a service, if the service would not be provided, or would not be provided to a certain standard, without that subsidy.

3.1.16 Therefore, services that are not provided on a commercial basis, but which a local authority considers to be socially necessary, may be provided by the local authority through subsidised contracts in reliance on section 63. These routes tend to operate in areas of low or lower population and overall usage – this can include evenings or weekend services on an otherwise commercially viable route.

### 3.1.17 **Funding**

3.1.18 In 2017/18 the Welsh Government provided £90m of specific grant funding for public buses, along with further funding through the unhypothecated local government settlement (Revenue Support Grant and re-distributed Non-Domestic Rates). Funding for bus infrastructure is also provided through the Local Transport Fund allocations to local authorities. The Welsh Government also provides support for school transport and there are around 700,000 non-emergency patient transport journeys per annum<sup>2</sup>.

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<sup>2</sup> <https://www.ambulance.wales.nhs.uk/en/58>



### 3.1.19 The £90m of public bus support includes:

- TrawsCymru bus service – the Welsh Government provides grants to local authorities for contracting the TrawsCymru long distance bus service;
- concessionary fares – bus operators in Wales can claim reimbursement for the revenue foregone from carrying passengers under the mandatory concessionary fares scheme and other discretionary discounted fares initiatives (for example, mytravelpass); and
- Bus Services Support Grant – bus operators can claim a contribution towards their in-service operating costs, which accounts for around two-thirds of the £25m Bus Services Support Grant. The remainder of the Bus Services Support Grant is used to procure socially necessary bus services that otherwise would not be delivered.

3.1.20 Within the local government settlement<sup>3</sup> there is provision for public transport revenue support (including support to bus operators) and concessionary fares. As the local government settlement is unhypothecated and is calculated using relative shares and including assumptions on notional council tax income, it is not possible to say exactly how much funding is provided for either of these purposes. It is also important to note that it is up to local authorities how they spend their settlement funding, along with council tax and other locally raised income.

3.1.21 The local government settlement uses Indicator Based Assessments (IBAs) as part of the mechanism to arrive at the overall distribution of unhypothecated funding across authorities. These IBAs are notional services areas that assess the relative need to spend across all authorities and across all services, given the amount of funding available, and include an assumption on projected council tax income. These IBAs do not directly equate to funding provided and are not targets for local authority spend.

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<sup>3</sup> The Welsh Government receives the majority of its funds from the UK Government as part of its block grant along with revenue from Welsh taxes. The Welsh Government then allocates some of this money to local authorities through the Revenue Support Grant and other grants as a contribution to providing their services, e.g. schooling, social care and waste management. Although the overall quantum of funding is based on the formula from the UK Treasury Green Book, the spend is not hypothecated to specific functions.

3.1.22 Table 1 provides a breakdown of Welsh Government direct support for public buses.

**Table 1: Breakdown of Welsh Government direct support for public buses (£m)**

Support Grant / Funding	2011/2012	2012/2013	2013/2014	2014/2015	2015/2016	2016/2017	2017/2018
Bus Services Support Grant*	32	30	25	25	25	25	25
TrawsCymru	2	2	2	2	2	3	3
Concessionary fares	57	59	60	59	59	60	59
Concessionary fare admin	2	2	2	2	2	2	2
Young Persons Discounted Bus Travel**	N/A	N/A	N/A	N/A	5	10	1
<b>Total</b>	<b>93</b>	<b>93</b>	<b>89</b>	<b>88</b>	<b>93</b>	<b>100</b>	<b>90</b>

\* Before 2013-14 Bus Services Support Grant was Regional Transport Services Grant

\*\* Young Persons Support scheme started in 2015-16

3.1.23 Table 2 provides a breakdown of the relevant Indicator Based Assessment totals within the local government settlement.

**Table 2: Breakdown of relevant local government settlement IBAs (£m)**

Support Grant / Funding	2011/2012	2012/2013	2013/2014	2014/2015	2015/2016	2016/2017	2017/2018
Concessionary Fares	10	9	9	9	10	9	9
Public Transport Revenue Support	17	19	20	18	19	16	16
<b>Total</b>	<b>31</b>	<b>31</b>	<b>31</b>	<b>29</b>	<b>26</b>	<b>26</b>	<b>25</b>

Note: These are not the amount of funding provided to local authorities and are not spending targets

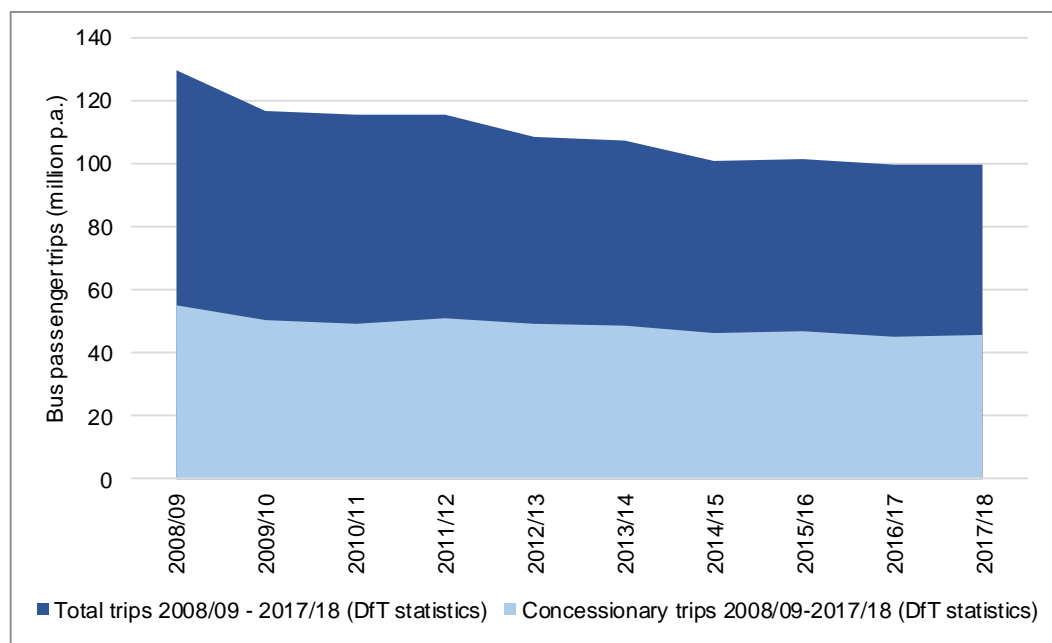
## 3.2 Current situation

### 3.2.1 Patronage in Decline

3.2.2 Local bus services account for 3 out of 4 journeys made by public transport. 99.9 million passenger journeys were undertaken on local buses in Wales in 2017/18. These services covered a total of 99.1 million vehicle kilometres. Commercial services accounted for 77% of the distance travelled and subsidised services accounted for 23%.<sup>4</sup>

3.2.3 Despite bus services being an essential part of the public transport network in Wales, they are in decline with passenger numbers falling steadily for many years on most routes in Wales. Figure 1 show the trends in bus patronage in Wales over the last decade.

Figure 1 – trends in bus patronage in Wales from 2008/09 – 2017/18



**Sources:** Department for Transport. Annual bus statistics: Year ending March 2018. January 2019. Accessed at: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/774572/bus0103.ods](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/774572/bus0103.ods)  
[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/774573/bus0105.ods](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/774573/bus0105.ods)

3.2.4 Figure 1 shows that despite levelling off in the most recent few years, there has been a general decline in bus patronage, with a fall of 29

<sup>4</sup> <https://gov.wales/public-service-vehicles-buses-and-taxis-april-2017-march-2018>

million journeys between 2008/09 and 2014/15. By the end of 2017/18 bus patronage stood at 99.9 million passenger journeys per year.

3.2.5 Figure 1 also shows the number of trips made by mandatory concessionary fare pass holders. Although there has been a fall in concessionary travel at an average of 1.1 million trips per year since 2008/09, this is less pronounced than the decline in non-concessionary journeys.

3.2.6 Discussions with local authorities, engagement and consultation with bus operators and desktop research suggests that the reduction in bus patronage is due to a combination of factors. These include:

- rising income levels, increasing car ownership and a rise in on-line shopping – which tend to reduce the demand for bus travel;
- reduced bus speeds due to traffic congestion, poorly coordinated networks and hence a lack of convenience of using the bus for many journeys such as those where transfer is needed;
- complicated ticket offers and lack of integrated tickets for use on different operators' services;
- land use planning decisions to locate new public sector buildings, shopping centres or industrial parks in locations which are not convenient for bus travel; and
- reductions in the number of local authority supported bus services and rising operator costs – which often results in fewer bus services and hence less usage by passengers.

3.2.7 Due to declining patronage, increased operating costs, higher cost of subsidised bus contracts following retendering and cuts to local authority budgets, bus services are also in decline resulting in less choice and availability to passengers<sup>5</sup>. Since 2010/11, 259 bus services in Wales have been reduced, altered or withdrawn.

3.2.8 Given the decline in bus patronage and number of services in recent years, it is projected that without action passenger numbers and local bus services will continue to decline. With no change in policies, the UK Department for Transport estimates that Welsh bus patronage will fall

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<sup>5</sup> <https://bettertransport.org.uk/sites/default/files/research-files/19.04.12.bic-2018.pdf> (page 5)

by 10% between 2017/18 and 2035/36 (around 0.6% per annum)<sup>6</sup>. This decline in services would likely lead to increased reliance on the private car and subsequent negative impacts on congestion and the environment.

- 3.2.9 With declining patronage and bus services there is an increasing reliance on public sector support. Despite the considerable public sector support for bus services, Wales does not have the service the Welsh Government wants to see and communities do not have the public transport connectivity that they need.
- 3.2.10 To provide better bus services for passengers, there is a need for operators, local authorities and other stakeholders to be able to work together more consistently, and with better alignment to the Welsh Government's aims for integrated and sustainable local public transport throughout Wales.

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<sup>6</sup> <https://gov.wales/sites/default/files/publications/2019-07/public-transport-wales-bill-draft-regulatory-impact-assessment.pdf>

### **3.3 Purpose of the legislation**

- 3.3.1 The performance of local bus services and markets varies considerably across Wales, particularly between rural and urban areas. As a result, the challenges with which local authorities are faced when considering bus service provision in their area also vary considerably. Therefore, there is not a “one size fits all” approach to bus service delivery in Wales.
- 3.3.2 The Welsh Government believes it is essential that local authorities have the right tools available to them to ensure appropriate delivery of bus services within their area. By improving the legislative framework, the Welsh Government can provide local authorities with an appropriate range of tools for improving the planning and delivery of local bus services.
- 3.3.3 Local authorities will need to consider how best to secure and sustain bus service delivery in their area. Due to the complexity of bus service delivery and the diversity of factors which influence how people travel, legislation alone will not halt or reverse long term trends in bus usage. Any solution is likely to require a coordinated effort and investment from several stakeholders to help shape and influence the provision of bus services to ensure that they meet the needs of individuals and communities.
- 3.3.4 The proposals set out in this Explanatory Memorandum describe the proposed legislative tools to enable local authorities to work together and, with bus operators, to respond flexibly to local community needs for local bus services, tailoring the approach to different circumstances and challenges. The proposed legislative changes would allow for improved partnership schemes, provide an improved franchising option and provide local authorities with the option to run bus services.
- 3.3.5 The intention is that local authorities should determine the most appropriate model for delivering bus services in their area. This is likely to depend on the nature of the bus market in the area, the priorities for the authority, such as increasing bus patronage, reducing congestion, securing environmental benefits, and their approach to the management of risk. By bringing forward provisions for improved partnership working arrangements (Welsh Partnership Schemes), legislation to amend and improve the Quality Contract Schemes system of franchising, as well as powers for local authorities to run their

own bus services would be putting in place a full range of tools to enable local authorities to respond flexibly to local community needs.

3.3.6 The legislation also includes proposals for improving the provision of data relating to bus services. This is an essential component of increasing patronage by attracting passengers and creating efficiencies in the way bus information is utilised. The provision of information is also essential for assisting local authorities in considering options for maintaining services when commercial services are withdrawn or varied.

3.3.7 To reflect the difference in these distinct legislative proposals, the purpose and intended effects are set out in two different parts:

- Section 1 – enabling legislation – Welsh Partnership Schemes (WPSs), Welsh franchising schemes and local authority run bus services; (Part 2 Chapters 1 and 2 and Part 3 of the Bill) and
- Section 2 – information sharing provisions (Part 2 Chapter 3 and Part 4 of the Bill).

### **3.4 Section 1: Enabling Provisions – Welsh Partnership Schemes, Welsh Franchising Schemes and local authority run bus services**

#### **3.4.1 Background**

3.4.2 Section 1 covers the following:

- the current legislative position in relation to each of the enabling provisions, identifying the limitations of current arrangements;
- the purpose of each of the enabling provisions; and
- the intended effect of the enabling provisions.

#### **3.4.3 Current position**

3.4.4 Existing legislative provisions in relation to bus services enable some partnership working and quality contracts, and permit local authorities to secure services through subsidised contracts in certain circumstances. Current legislation also places restrictions on local authorities in terms of running services directly. The details of the relevant legislative provisions are outlined below.

3.4.5 The Welsh Government considers that there are a number of limitations with the existing provisions and that they do not provide the flexibility for local authorities to respond to the different challenges in delivering bus services that meets their communities' needs.

#### Partnership working

3.4.6 Sections 114 to 123 of the Transport Act 2000 enable local authorities to establish Quality Partnership Schemes (QPSs). QPSs set the service standards that bus companies must meet along a prescribed route or area and, in return, local authorities must provide enhanced facilities to support bus services, such as bus priority measures, high-quality waiting areas at bus stops and better information for passengers. Under QPSs, operators that do not meet the required standards can be excluded from using the facilities provided.



Partnership schemes are required to operate for a minimum of five years.

- 3.4.7 Whilst the use of voluntary partnership arrangements has the potential to improve service standards, reduce congestion and bring about environmental benefits, there are limitations with this approach. The success of voluntary partnership arrangements is dependent on the on-going strength of the relationships between local authorities and bus operators, with continued funding commitments from all stakeholders. The success of reaching an agreement would also be dependent on the objectives of local authorities and operators being aligned, so that there is a common goal. Where new operators enter the area and are not party to the arrangement there is a risk that the partnership could be disrupted.
- 3.4.8 The use of QPSs also has the potential to improve service standards, reduce congestion and bring about environmental benefits. However, there are limitations and challenges with this approach. The requirement for local authorities to provide facilities as part of a statutory scheme can be a significant limiting factor, particularly given the current financial climate, alongside wider organisational capacity (resources and/or skills), financial restrictions or structural realignment of strategic objectives. Furthermore, it is considered that local authorities should be able to draw upon a wider range of interventions in order to secure a bus partnership.
- 3.4.9 There are also limitations with the service standards that can be required under QPSs. Under current provisions, the standards that can be specified are restricted to vehicle standards, timetabling and maximum fares. There is no power, for example, to specify routes or common fares below the maximum.
- 3.4.10 Where operated effectively, QPSs do have the potential to bring about some improvements in bus service provision, with successful examples including Liverpool and Nottingham where the partnerships have been supported by appropriate resources and finance. However, there has been limited application of these powers in Wales, primarily due to the annual funding cycle that does not provide funding certainty for local authorities over the course of the 5-year minimum period. Whilst there are some examples of voluntary partnerships in Wales (for example, Rhondda Cynon Taff County Council and Stagecoach or the former

Swansea Metro), we are not aware of any Statutory Quality Partnerships on commercial routes in Wales.

### Franchising

- 3.4.11 Subject to the Welsh Ministers commencing the relevant legislative provisions contained in sections 124 to 134B of the Transport Act 2000, local authorities in Wales could enter into Quality Contract Schemes (QCSs). QCSs are a form of franchising which would enable local authorities to prescribe what bus services are to be provided in an area and to let contracts for the provision of those services via competitive tendering.
- 3.4.12 Whilst QCSs provide for a form of franchising, the processes in current QCS provisions are considered to be overly complex and resource intensive. The existing legislation places an onerous set of statutory criteria on the local authority and requires the approval of the Welsh Ministers who must be satisfied that the scheme would be in the public interest. No QCSs have been successfully delivered across the UK under the existing provisions. England has sought to address these shortcomings through the Bus Services Act 2017 and Scotland has proposed legislative provision in the Transport (Scotland) Bill. The changes to franchising in the Bill seek to address the weaknesses in the arrangements for Wales.
- 3.4.13 Franchising of bus services in the UK currently only takes place in London. However, the Greater Manchester Combined Authority has recently published their intentions to franchise under the Bus Services Act 2017<sup>7</sup>. Franchising (or contracting of service provision) to one or more exclusive operators is common in European countries and there is a wide range of industry-recognised research on franchising. For example, the Urban Transport Group (UTG, which is a body representing UK's network of city region transport authorities) has published a number of relevant research documents, including an in-depth look at the experience of franchising of public transport networks in Sweden, Norway and Denmark. The report<sup>8</sup> shows that franchising is the norm for bus services in Scandinavia and has been instrumental to the delivery of integrated, high quality and successful bus services in an efficient way. It also shows the many different approaches to

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<sup>7</sup> <https://www.gmconsult.org/strategy-team/gmbusconsultation/>

<sup>8</sup> <http://www.urbantransportgroup.org/media-centre/press-releases/new-report-shows-how-uk-can-follow-scandinavian-way-better-transport>

franchising that different transport authorities have taken depending on local circumstances and aspirations.

#### Local authority run bus services

3.4.14 Currently, the Transport Act 1985 prohibits local authorities from running their own bus services, except for where:

- a local authority was already operating a bus company when the prohibition came into force;
- a local authority only runs a small operation and has applied to the Welsh Ministers for an exemption from the general restriction; and
- a bus operator has failed to run a service as contracted under a QCS and a local authority has had to step in.

3.4.15 The exceptions to the general prohibition on local authorities running bus services do not, for example, allow for situations where the local authority is required to contract a socially necessary service via section 63 of the Transport Act 1985 but receives few or no tenders to run that service from commercial operators for local bus services in their area.

3.4.16 Sometimes local authorities receive no tenders but are currently unable, in law, to fill the gaps by running such services themselves. At other times, competition is so poor that the tenders received are not competitively priced meaning that local authorities end up paying more to support socially necessary routes. Rural authorities often face these challenges.

3.4.17 Except where there is an existing municipal bus company (Cardiff Bus and Newport Bus), the current legislation prohibits a local authority from running bus services on a commercial and subsidised basis. The Welsh Government considers that local authorities need greater flexibility to address local transport challenges through running bus services in-house or through an arms-length company.

### **3.4.18 Purpose of the Enabling Provisions**

#### Partnership working

3.4.19 Welsh Partnership Schemes (WPSs) will provide local authorities and operators with greater opportunity to develop partnerships for the delivery of bus services in an area.

3.4.20 WPSs are aimed at making buses a more attractive proposition for the travelling public, by bringing together operators and local authorities to plan and implement a series of agreed measures and improvements to the quality and provision of bus services – such as coordination of timetables, better information and ticketing, higher quality vehicles and measures to speed up buses.

3.4.21 WPSs will allow local authorities to use facilities and measures as their contribution to a partnership, to secure service and route requirements for bus services in a specified area. For example, a local authority may be able to use the enforcement of bus lanes (a measure) as part of its contribution. This would not be possible under the existing QPS scheme provisions.

3.4.22 WPSs must contribute to the implementation of local transport policies, be developed in partnership with bus operators and be subject to a meaningful consultation process. In order to ensure a partnership balance between local authorities and bus operators, WPSs will have formal objections provisions (described in more detail in Annex 1 to the Explanatory Notes), and will be subject to the competition test in Schedule 10 to the Transport Act 2000. In practice, the test takes

account of matters such as proportionality and the effect on competition of the WPS.

- 3.4.23 Compliance with a WPS would be enforced through the bus registration system, and operators who fail to comply with the requirements of a WPS could have their registration refused or revoked.

#### Franchising

- 3.4.24 The legislative proposals to address franchising provisions in Wales will provide an alternative workable system of franchising which addresses the limitations within the existing QCS provisions.

- 3.4.25 Under this option, local authorities would be able to develop a franchising scheme under which they could award the exclusive right, through contracts to run routes on a bus network, to the most competitive bidders. Local authorities could develop one franchising scheme which could then contain multiple delivery contracts as considered appropriate by the local authority.

- 3.4.26 The availability of a workable franchising process that would allow the delivery of all bus services in a defined area to come under the direct contractual control of a local authority would provide the local authority with more flexibility and greater control in addressing challenges with bus service delivery in their area. Furthermore, coordinated franchise contracts would enable the present-day subsidised and commercial services to operate as a seamless single network.

- 3.4.27 In order to ensure that new franchising proposals are robust, the legislative changes will set out requirements that must be taken into account in any new franchising proposals and Welsh Ministers will provide best practice guidance. Accordingly, each franchising proposal must be thoroughly considered through a detailed business case, which is subject to audit, followed by consultation as required before a decision can be made (described in more detail in Annex 1 to the Explanatory Notes).

- 3.4.28 Franchising would be available to each of the 22 local authorities in Wales, or to local authorities acting jointly. If local authorities worked jointly to make a franchising scheme they would be expected to put in place appropriate governance arrangements (i.e. legal, financial and staffing). Franchised services would be managed in accordance with

the contract terms agreed between the franchising authority and bus operator(s).

#### Local authority run bus services

3.4.29 The purpose of removing the restrictions on the current legislation in relation to local authority run bus services, is that local authorities would be able either solely or working jointly to provide local bus services in their area or collective areas.

3.4.30 This will allow local authorities to directly run bus services either as an in house service or through an arms-length company that is connected to the local authority. The method of delivery of services and compliance with state aid and competition law would be a matter for the local authority.

3.4.31 The legislative changes mean that local authorities would be able to:

- provide subsidised services directly through an in-house service or compete for subsidised section 63 contracts through a company controlled by the local authority; and
- enter the market and operate services to make a profit in the same way as any other commercial operator.

3.4.32 All arrangements would be subject to the same competitive constraints and registration requirements as any other operator.

#### **3.4.33 Intended Effect of the Enabling Provisions**

3.4.34 The intended effect of the enabling provisions is that local authorities have access to a comprehensive suite of tools when seeking to address the challenges with bus service delivery in their area, and work with stakeholders towards developing an accessible, affordable and integrated bus network that meets the needs of communities in Wales.

3.4.35 Each local authority faces different challenges in securing bus services. Some local authorities may consider that franchising would be the most appropriate solution for their area, while other local authorities may prefer to bring about improvements through partnership working and

others may decide that the only way of achieving the desired outcome would be to run services directly themselves.

3.4.36 By bringing forward legislative proposals for WPSs, Welsh franchising schemes and local authority run bus services, the Welsh Government would be providing local authorities with the tools to help them secure the bus services needed in their areas. It would also provide local authorities with a greater influence to try and reverse the decline in bus patronage, along with other wider benefits (for example, health benefits, greater social interaction, reduced congestion and reduced carbon emissions).

3.4.37 It is the intention that implementing the enabling tools could improve: service and vehicle standards; coordination between bus operators in respect of routes and ticketing; and integration across the public transport and active travel networks. Thus increased patronage and associated revenue increases would be supported and would contribute to the wider ambitions of the Welsh Government for a modern public transport system that is accessible, affordable, environmentally sustainable and integrated.

## **3.5 Section 2: Information Sharing Provisions**

### **3.5.1 Background**

3.5.2 The information sharing provisions cover two elements:

- Open data – which addresses the provision of accurate, up-to-date information about bus services; and
- Service information – which addresses the provision of information about revenue and patronage from the incumbent bus operator when commercial bus services are withdrawn or varied and a local authority is considering options for maintaining the level of service.

3.5.3 The information sharing provisions are considered separately below.

### **3.5.4 Current position**

#### **3.5.5 Open Data**

3.5.6 Clear, high-quality and up-to-date information is essential for the smooth running of bus services. Today, people have far greater expectations about the kind of information that should be available to them, and users expect to be able to make informed choices based on easily available data.

3.5.7 Access to clear and accurate information about bus services is important for local authorities in supporting their local bus services. It is also important for software developers seeking to create services such as smartphone Apps and journey planning systems.

3.5.8 Under section 139 of the Transport Act 2000 there is a duty on local authorities to share appropriate data about services with the public, for example, through the internet and on bus stops. In addition, it requires local authorities to determine what and how local bus information should be made available to the public. There is a requirement on an operator to provide the information, and if



an operator fails to do so enforcement action can be taken by the Traffic Commissioner.

3.5.9 The type of information that is made available is:

- information about the routes and timetabling of local services to, from and within a local authority's area;
- information about fares for journeys on services; and
- such other information about facilities for disabled persons, travel concessions, connections with other passenger transport services or other matters of value to the public as a local authority considers appropriate in relation to its area.

3.5.10 Local authorities in Wales have limited powers to require the provision of information by bus operators in relation to local services. Section 143 of the Transport Act 2000 enables local authorities, in connection with the exercise of their functions relating to public transport, to require an operator to provide them with information about:

- the total number of journeys undertaken by passengers on the local services operated by the operator in the authority's area (i.e. total passengers);
- the structure of fares for the journeys; and
- the total distance covered by the vehicles used by the operator in operating those services (i.e. bus mileage).

3.5.11 Currently operators make information available to passengers through their own websites, as well as online applications (Apps) and journey planners, on a voluntary basis. However, this practice is not consistent from operator to operator and does not allow passengers to have access to comprehensive data to inform travel that requires use of more than one operator.

3.5.12 To provide a degree of mitigation, the Welsh Government currently grant funds Traveline Cymru to provide comprehensive public transport information via their website, App and call centre.

However, this service is reliant on operators providing the necessary information.

- 3.5.13 As a result, the information available to passengers in practice is inconsistent, variable in quality, fragmented and often out of date.

#### Service information

- 3.5.14 In 2011, the Competition Commission's Local Bus Services Market Investigation<sup>9</sup> recommended that local authorities should be enabled to obtain, and where appropriate disclose, information about the revenue and patronage of bus services that are being deregistered. The intention behind this recommendation was to enable local authorities to better manage tenders for supported replacement services and to provide cost effective outcomes in tender prices. The Bill provides an opportunity to take this recommendation forward.
- 3.5.15 Apart from by informal cooperation, local authorities are currently unable to access patronage and revenue information about withdrawn or varied services that would assist them in decisions about maintaining withdrawn and varied services, including whether to contract to provide a subsidised replacement service and help ensure competitive tenders are received should they decide to support a replacement service.

### **3.5.16 Purpose of the provisions**

#### Open data

- 3.5.17 The purpose of the open data provisions is to enable Welsh Ministers to make regulations regarding the provision of information about Welsh bus services by operators, local authorities and the Traffic Commissioner.
- 3.5.18 The type of information to which the regulations would apply includes: routes and stopping places; timetables; fares and ticketing; and, live information, for example, about how busy a bus

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<sup>9</sup> <https://www.gov.uk/cma-cases/local-bus-services-market-investigation-cc>

is and whether it is running on-time. The regulations will also set out to whom the information is to be provided, when and how.

- 3.5.19 The legislation will also allow the Traffic Commissioner to apply sanctions to a bus operator that has failed to comply with the regulations (further detail is available in Annex 1 Explanatory Notes).
- 3.5.20 The purpose of the provision is to set out requirements for a comprehensive open data set for the bus services that are available across Wales, which can be made easily accessible to the public. The information would also be available to App designers who would be able to use it to provide comprehensive travel information across all modes of public transport.

#### Service information

- 3.5.21 The purpose of the service information provisions is to enable local authorities to require bus operators to provide certain revenue and patronage information when services are withdrawn or varied; and the local authority is considering arrangements for maintaining the withdrawn or varied service, including subsidising the level of service in accordance with section 63 of the Transport Act 1985. The information can then be used by local authorities to better manage tendering for subsidised replacement services in accordance with the Competition Commission's Local Bus Services Market Investigation recommendations.
- 3.5.22 If the local authority decides to tender for a subsidised replacement service, it can provide aggregated annual information about the service to other bus operators, and persons prescribed in the legislation, who may be interested in providing the replacement service. In order to address the unlawful disclosure of information, this proposal will create a new summary offence.
- 3.5.23 Bus operators can request for the information not to be disclosed and the local authority would then need to assess whether disclosure would damage the commercial interests of the operator.

However, refusal to provide the information may result in the Traffic Commissioner imposing a sanction upon the operator.

### **3.5.24 Intended effect of the provisions**

#### Open data

3.5.25 The intended effect of this provision is to facilitate the availability of clear, high-quality and up-to-date information on bus services to people in Wales as well as assist software developers when creating services such as smartphone Apps and journey planning systems.

3.5.26 As a result, the public would have access to more consistent, reliable and up-to-date data on bus services. This will assist people to plan their journeys using public transport and could contribute to increasing patronage.

#### Service information

3.5.27 The availability of accurate information on withdrawn or varied services will assist local authorities when making decisions on their local bus services. If a local authority decides to subsidise the service, the information will help secure cost effective replacement services. This will help make the best use of public sector resources used to support the bus services that communities in Wales need.

## **4. Chapter 4 – Consultation**

### **4.1 Consultation undertaken prior to introduction of the Bill**

- 4.1.1 The Welsh Government has undertaken significant engagement with delivery partners, transport operators, local authorities and transport advisory groups to better understand the issues facing the bus industry and its current state in Wales.
- 4.1.2 In September 2016, the Cabinet Secretary for the Economy and Infrastructure announced a five point plan to support the bus industry to achieve a financially viable and sustainable future. The Cabinet Secretary also announced plans for a bus summit to be held in early 2017<sup>10</sup>.
- 4.1.3 The purpose of the bus summit, which was held in Wrexham on 23 January 2017<sup>11</sup>, was to bring together a range of key stakeholders to better understand the challenges facing the bus industry in Wales and begin a new process of consultation and new approach to bus policy involving local authorities, bus operators, users and representatives.
- 4.1.4 In February 2017, the Cabinet Secretary for Economy and Transport gave an oral statement to provide an update following the bus summit<sup>12</sup>.
- 4.1.5 Following the bus summit, eight workshops were held across Wales to discuss the issues identified at the bus summit as well as identifying potential solutions and whether they could be implemented through existing legislation, or would require new legislation.
- 4.1.6 In March 2017, the Welsh Government published a consultation document on 'Improving Local Bus Services in Wales'. The

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<sup>10</sup> <https://gov.wales/written-statement-local-bus-services> and <https://gov.wales/economy-secretary-outlines-plan-support-bus-industry>

<sup>11</sup> <https://gov.wales/summit-brings-bus-industry-together>

<sup>12</sup> <https://gov.wales/oral-statement-future-local-bus-services>

consultation outlined a number of proposals for how the planning and delivery of local bus services in Wales could be improved

- 4.1.7 Following the consultation, further consideration was given to the preferred approach to legislative reform in relation to local bus services. This revised approach was then developed into the Improving Public Transport White Paper.
- 4.1.8 Formal consultation on the Improving Public Transport White Paper was conducted between 10 December 2018 and 27 March 2019. The White Paper set out proposals for improving the legislative framework for how local bus services are planned and delivered, together with proposals for the reform of the licensing of taxis and private hire vehicles.
- 4.1.9 The White Paper included a total of 38 questions, based on the Welsh Government's proposals for legislation. The Welsh Government sought a broad range of views on the White Paper through written responses, engagement events and specific engagement meetings to ensure as many people as possible had the opportunity to voice their opinions on the proposals.
- 4.1.10 The four stakeholder engagement events were held across Wales, with a total of around 200 in attendance. Welsh Government officials provided an opening presentation summarising the content of the White Paper and associated process, followed by facilitated round-table discussions with the opportunity for attendees to provide comments on 'post-it notes' and flip charts, followed by a feedback session at the end.
- 4.1.11 In addition to the specific White Paper consultation engagement events, during the consultation period four major bus operator seminars were held across Wales. Attendees included managing directors, engineering managers, transport managers and licence holders of bus and coach operators. At the seminar, attendees

were given a summary of the White Paper and were encouraged to respond formally to the White Paper consultation.

4.1.12 The web link to this consultation, as well as a summary of responses, is available through the following web address: <https://gov.wales/proposals-improve-local-bus-services-wales>.

4.1.13 Due to the various consultations and stakeholder engagements already undertaken in relation to bus services in Wales, including the White Paper consultation and engagement programme on draft proposals for the bill, there has been no consultation on a draft Bill in advance of introduction to the National Assembly for Wales

4.1.14 Following the White Paper consultation, the Bus Services (Wales) Bill: Draft Regulatory Impact Assessment was published on 23 July 2019<sup>13</sup>. Engagement with key stakeholders, including local authorities and bus operators, on the draft Regulatory Impact Assessment was undertaken between 23 July 2019 and 3 September 2019.

## **4.2 Summary of the Outcomes of Consultation**

4.2.1 The Welsh Government published the consultation responses received to the Improving Public Transport White Paper, together with a summary report, in July 2019. A copy of those responses and the report is available at: <https://gov.wales/improving-public-transport>.

4.2.2 A total of 564 responses were received, 558 of which were in relation to the main consultation document. Out of the responses received, 278 were received from the Cardiff Hackney Alliance in the form of a standard campaign response addressing the questions posed in relation to taxis and PHVs only. Table 2 below is reproduced from the Summary of Consultation Responses document (number WG36240)

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<sup>13</sup> <https://gov.wales/public-transport-wales-bill-draft-regulatory-impact-assessment>

4.2.3 Table 2 Summary of response to the Improving Public Transport White Paper<sup>14</sup>.

Category	Number of Responses
Members of the public / individual Of which 55 were responses from a single member of the public	158
Local Government (local authorities, town and community councils, health boards and the Police)	51
Elected Members	11
Passenger representative groups and protected characteristics representative groups	30
Bus Operators and Transport Representative Bodies (including Unions)	15
Taxi Industry including PHV - Drivers and Operators of which 278 were a campaign response from Cardiff Hackney Alliance.	289
Community and Youth	5
Easy Read	1
Organisations	4

4.2.4 Overall, there was general support amongst stakeholders for the proposals in relation to buses set out in the White Paper. In particular, there was good support for the proposals that would provide local authorities with more flexibility when considering the provision of bus services in their area, with many respondents

<sup>14</sup> <https://gov.wales/sites/default/files/consultations/2019-08/improving-public-transport-summary-of-response.pdf>



providing comments on how these proposals should be implemented.

- 4.2.5 With regards to taxis and private hire vehicles, whilst there was general support for the proposals relating to national standards, enforcement and information sharing, there was a strong feeling from local authorities and the industry that the proposals in the White Paper did not go far enough to address the issues the industry faces. There was also mixed feedback in relation to the Joint Transport Authority proposals. Whilst there was some support for a regional approach in relation to bus service provision, this approach was not supported in relation to the exercising of taxi and private hire vehicle licensing functions.

### 4.3 Amendments following Consultation

- 4.3.1 Following consideration of the consultation responses and ongoing policy development, the following changes to the Bill have been made:

Legislative proposals in relation to taxis and private hire vehicles (PHVs) are no longer being taken forward as part of the Bill	Through the White Paper consultation and engagement, it became very clear that there is a considerable amount of work still required before we can bring forward legislation that addresses the improvements needed in relation to taxis and PHVs. Responses to the White Paper consultation highlighted the wide range of stakeholder views about how the legislation underpinning the operation of the taxi and PHV industry should be improved and those views are not consistent across the industry.
Provisions in relation to Joint Transport Authorities will no longer be included in the Bill.	Since the launch of the White Paper it has been agreed that the Welsh Government should include powers in the Local Government and Elections (Wales) Bill to enable the creation, via regulations, of a single mechanism (a Corporate Joint Committee - CJC) for

	<p>regional working. The purpose of the CJC approach is to provide a single and consistent mechanism for regional working by local government. Welsh Ministers have indicated their intention to establish regional CJs for transport and to repeal the relevant sections of the Transport (Wales) Act 2006 relating to Joint Transport Authorities.</p>
<p>Provisions in relation to changes to the Mandatory Concessionary Fares Scheme will no longer be included in the Bill.</p>	<p>Following the White Paper consultation, stakeholder engagement and further consideration of the potential impacts of the proposal, it became clear that the changes as proposed need more work to develop a long term approach to concessionary fares in Wales.</p>

## **5. Chapter 5 – Power to make subordinate legislation**

The Bill contains provisions to make subordinate legislation. Table 5.1 (subordinate legislation) and Table 5.2 (directions and guidance) set out in relation to these:

- (i). the person upon whom, or the body upon which, the power is conferred;
- (ii). the form in which the power is to be exercised;
- (iii). the appropriateness of the delegated power;
- (iv). the applied procedure; that is, whether it is “affirmative”, “negative”, or “no procedure”, together with reasons why it is considered appropriate.

To assist in understanding the Welsh Minister’s intended use of these powers, a separate ‘Statement of Policy Intent’ has been published to accompany the Bill.

The Welsh Government will consult on the content of the subordinate legislation where it is considered appropriate to do so. The precise nature of consultation will be decided when the proposals have been formalised.

**Table 5.1: Summary of powers to make subordinate legislation in the provisions of the Bus Services (Wales) Bill**

Section	Power conferred on	Form	Appropriateness of delegated power	Procedure	Reason for procedure
PART 2: SCHEMES FOR THE PROVISION OF LOCAL BUS SERVICES.					
Chapter 1: Welsh Partnership Schemes.					
<p>Bill Section 8(a) and (b) [076].</p> <p>Substitutes subsection 119(1), and makes amendments and insertions to subsection 119(2), of the Transport Act 2000.</p>	Welsh Ministers/ Secretary of State acting jointly with Welsh Ministers.	Regulations.	Suitable for regulations as gives the appropriate National Authority the flexibility to respond quickly to changing needs when specifying existing measures, as well as existing facilities, in Welsh partnership schemes.	Negative.	The negative procedure is appropriate because the subject matter of these regulations will be technical in nature. In addition, this is an update of an existing “negative procedure” regulation-making power, to reflect new provisions about Welsh partnership schemes.
<p>Bill Section 10(1)(a) [078].</p> <p>Amends subsections</p>	Welsh Ministers/ Secretary of State acting jointly with Welsh Ministers.	Regulations.	Suitable for regulations as gives the appropriate National Authority the flexibility to respond quickly to changing needs when providing certain detail about	<p>Negative.</p> <p>(Unless includes provision amending the Transport Act</p>	The negative procedure is appropriate because the subject matter of these regulations will be technical in nature. In addition, this is an

<b>Section</b>	<b>Power conferred on</b>	<b>Form</b>	<b>Appropriateness of delegated power</b>	<b>Procedure</b>	<b>Reason for procedure</b>
122(1)(a), and (f) , and substitutes new subsections 122(1)(aa) and (ab) for existing subsection 122(1)(aa) of the Transport Act 2000.			Welsh partnership schemes, including the objections regime for service standards.	2000, as enabled by Bill section 10(1)(b)) [078] discussed below).	update of an existing “negative procedure” regulation-making power, to reflect new provisions about Welsh partnership schemes.
Bill section 10(1)(b) [078].  Inserts new subsection 122(2A) into the Transport Act 2000.	Welsh Ministers/ Secretary of State acting jointly with Welsh Ministers.	Regulations.	Suitable for regulations as gives the appropriate National Authority the flexibility to respond quickly if section 114C(1) of the Transport Act 2000 needs to be amended. Changes that may be made using this power include specifying further, removing, or modifying the description of types of service standards for Welsh partnership schemes that may be objected to.	Affirmative.	The affirmative procedure is appropriate because this regulation-making power enables the Welsh Ministers to amend section 114C of the Transport Act 2000, and to make consequential amendments to that Act.  This power to amend primary legislation confers further significant powers on the Welsh Ministers and it is appropriate

Section	Power conferred on	Form	Appropriateness of delegated power	Procedure	Reason for procedure
			Also allows consequential amendments to be made to the Transport Act 2000.		that the regulations are approved in plenary. In addition, the regulations will have been subject to extensive consultation with operators, users of services and relevant organisations.
<p>Bill section 10(1)(c) to (g) [078].</p> <p>Substitutes subsections 122(3) and (4), inserts new subsection 122(3A) &amp;(3B) and 122(7) and amends subsection 122(5)(a) and 122(6) of the Transport Act 2000.</p>	Welsh Ministers/ Secretary of State acting jointly with Welsh Ministers.	Regulations (Ancillary power to section 122(1)).	Refines the regulation-making power in section 122(1)(a) and (aa) relating to Welsh Partnership schemes, so that Welsh Ministers may make provision about service standards that may be objected to under new section 114C, and provides the appropriate National Authority with power to require Welsh partnership schemes to include certain provisions in prescribed circumstances. This	Negative.	The negative procedure is appropriate because the subject matter of these regulations will be technical in nature. This is also a relatively minor detail within the overall legislative provision in connection with the operation of a Welsh partnership schemes.

Section	Power conferred on	Form	Appropriateness of delegated power	Procedure	Reason for procedure
			enables significant detail to be accommodated by way or regulations, rather than encumbering the face of the Bill.		
<p>Bill Section 11(3) [079a].</p> <p>Inserts new subsection 6AA(10) into the Transport Act 1985.</p>	Welsh Ministers/ Secretary of State acting jointly with the Welsh Ministers.	Regulations.	Suitable for Regulations as enables Welsh Ministers (or the Welsh Ministers acting jointly with the Secretary of State where a scheme is operating in England and Wales) to make detailed provision for the purposes of applications for registration of Welsh Partnership schemes without having to encumber the face of the Bill.	Negative.	The negative procedure is appropriate because the subject matter of the regulations is technical in nature.
<p>Bill Section 11(3) [079a].</p> <p>Inserts new section 6AB(6) into the</p>	Welsh Ministers/ Secretary of State acting jointly with the Welsh Ministers.	Regulations.	Suitable for Regulations as enables Welsh Ministers (alone or acting jointly with the Secretary of State), to make detailed provision for the purposes of	Negative.	The negative procedure is appropriate because the subject matter of the regulations is technical in nature.

<b>Section</b>	<b>Power conferred on</b>	<b>Form</b>	<b>Appropriateness of delegated power</b>	<b>Procedure</b>	<b>Reason for procedure</b>
Transport Act 1985.			registration and variation of services provided in accordance with service standards, including the procedures by which the traffic commissioner must consider such applications, without having to encumber the face of the Bill.		
Bill Section 11(3) [079a].  Inserts new section 6AC(3) into the Transport Act 1985.	Welsh Ministers/ Secretary of State acting jointly with the Welsh Ministers.	Regulations	Suitable for Regulations as provides Welsh Ministers (alone or acting jointly with the Secretary of State), with the flexibility to make detailed provision regarding the date(s) upon which services may be cancelled by the Traffic Commissioner without having to encumber the face of the Bill.	Negative.	The negative procedure is appropriate because the subject matter of the regulations is technical in nature.
Bill Section	Welsh Ministers/ Secretary of State	Regulations.	Suitable for Regulations as provides Welsh	Negative.	The negative procedure is



<b>Section</b>	<b>Power conferred on</b>	<b>Form</b>	<b>Appropriateness of delegated power</b>	<b>Procedure</b>	<b>Reason for procedure</b>
11(3) [079a].  Inserts new section 6AC(6) into the Transport Act 1985.	acting jointly with the Welsh Ministers.		Ministers (or acting jointly with the Secretary of State) with the flexibility to make supplementary provisions about cancellation of services, including introducing conditions that must be satisfied by an operator to avoid cancellation of a service.		appropriate because the subject matter of these regulations will be technical in nature.
Bill Section 12 [079b].  Inserts new section 6L(2)(a) into the Transport Act 1985.	Welsh Ministers/ Secretary of State acting jointly with the Welsh Ministers.	Regulations.	Suitable for Regulations as provides Welsh Ministers (or acting jointly with the Secretary of State) with the flexibility to determine the level and scope of fees payable to local transport authorities.	Negative.	The subject matter of these regulations will be administrative in nature.
Bill Section 12 [079b].  Inserts new section 6N(3) into the	Welsh Ministers/ Secretary of State acting jointly with the Welsh Ministers.	Regulations.	Suitable for Regulations as provides Welsh Ministers (or acting jointly with the Secretary of State) with the flexibility to vary the	Negative.	The subject matter of these regulations will be technical in nature.

<b>Section</b>	<b>Power conferred on</b>	<b>Form</b>	<b>Appropriateness of delegated power</b>	<b>Procedure</b>	<b>Reason for procedure</b>
Transport Act 1985.			appeals process and the timeframe for appeals in relation to the registration of Welsh partnership schemes. Both of these requirements may need to be altered from time to time, and doing so by way of regulations will ensure changes are made relatively quickly.		
Bill Section 12 [079b].  Inserts new section 6O(1) into the Transport Act 1985.	Welsh Ministers/ Secretary of State acting jointly with the Welsh Ministers.	Regulations.	Suitable for Regulations as provides Welsh Ministers (or acting jointly with the Secretary of State) with the flexibility to make supplementary provision in connection with the carrying out of registration functions by local authorities.	Negative.	The subject matter of these regulations will be technical in nature.
Chapter 2: Welsh Franchising Schemes.					
Bill Section 15(1)	Welsh Ministers.	Regulations.	Suitable for Regulations as gives Welsh	Negative.	The subject matter of these regulations is

<b>Section</b>	<b>Power conferred on</b>	<b>Form</b>	<b>Appropriateness of delegated power</b>	<b>Procedure</b>	<b>Reason for procedure</b>
[091B].  Inserts a new section 127 into the Transport Act 2000 (including section 127(9)).			Ministers the flexibility to amend the minimum time between which local franchise contracts can be entered into, and services can be delivered under those contracts.		technical in nature. This is also a relatively minor detail within the overall legislative provision in connection with the making and coming into operation of Welsh franchising schemes which are addressed on the face of the Bill.
Bill Section 15(2) [091B].  Amends section 128 of the Transport Act 2000, to include substituting a new subsection (4).	Welsh Ministers.	Regulations.	Suitable for Regulations as provides Welsh Ministers with the flexibility to amend the maximum period of time for which it is possible to postpone the coming into effect of a Welsh franchising scheme.	Negative.	The negative procedure is appropriate because the subject matter of these regulations will be technical in nature. Also this is a relatively minor detail within the overall legislative provisions in connection with the making and coming into operation of Welsh franchising schemes.
Bill Section 16(6)	Welsh Ministers.	Regulations.	Suitable for Regulations as enables Welsh	Negative.	The negative procedure is

<b>Section</b>	<b>Power conferred on</b>	<b>Form</b>	<b>Appropriateness of delegated power</b>	<b>Procedure</b>	<b>Reason for procedure</b>
<p>[091C].</p> <p>Inserts a new section 6BA into the Transport Act 1985, to include subsection (6).</p>			Ministers to make supplementary provision for the purpose of giving effect to the substantive provisions relating to the cancellation or variation of services registered in accordance with section 6B of the 1985 Act.		appropriate because the subject matter of the regulations is technical in nature. The regulations may deal with matters such as the service of notices and the timeframes within which cancellations etc. may take effect. It is possible that periodic changes will be required in that regard.
<p>Bill Section 19(1) [093].</p> <p>Substitutes section 133 of the Transport Act 2000.</p>	Welsh Ministers.	Regulations.	Suitable for Regulations as gives Welsh Ministers the power to make further provision relating to Welsh franchising schemes. This can include further provision about procedure on making, varying or revoking schemes; excluded services and other	Negative.	The negative procedure is appropriate because the subject matter of these regulations will be technical in nature. The detailed provisions relating to the making, coming into force , variation and revocation of Welsh franchising schemes is

Section	Power conferred on	Form	Appropriateness of delegated power	Procedure	Reason for procedure
			incidental matters relating to Welsh franchising schemes (new section 133(1)). The Welsh Ministers can also make regulations modifying or excluding elements of the prescribed procedure to be followed where local authorities vary or revoke a franchising scheme, or where the start date for a franchise contract is postponed for contracts that are let following the variation of a scheme (section 133(3)).		addressed on the face of the Bill, and the matters addressed in regulations will likely be relatively minor details in terms of these overall provisions.
Bill Section 19(2)(a) [093].  Substitutes section 134(1) of the	Welsh Ministers.	Regulations.	Suitable for Regulations as this provision enables the Welsh Ministers to make transitional provisions, relating to the coming into operation,	Negative.	The negative procedure is appropriate because the subject matter of the regulations would be technical in nature dealing with

<b>Section</b>	<b>Power conferred on</b>	<b>Form</b>	<b>Appropriateness of delegated power</b>	<b>Procedure</b>	<b>Reason for procedure</b>
Transport Act 2000.			continuation and ending of Welsh franchising schemes.		transitional arrangements.
<p>Bill section 26 [096] introduces the Schedule to the Bill.</p> <p>This includes paragraph 3(4)(c) of the Schedule.</p>	Welsh Ministers.	Regulations.	<p>The “Welsh Ministers” are substituted for “Secretary of State” in section 134B(6) of the Transport Act 2000.</p> <p>Suitable for Regulations as gives Welsh Ministers the flexibility to supplement, by way of regulations, the provisions made in section 134B of the Transport Act 2000 regarding the application of TUPE to relevant transfers which take place where a Welsh franchising scheme is in place.</p>	Negative.	<p>The negative procedure is appropriate because the subject matter of these regulations will be technical in nature. The substantive provisions in terms of the application of the TUPE provisions to relevant transfers are addressed on the face of the Bill. As such the detail to be included within any regulations is likely to be relatively minor in nature.</p>

<b>Section</b>	<b>Power conferred on</b>	<b>Form</b>	<b>Appropriateness of delegated power</b>	<b>Procedure</b>	<b>Reason for procedure</b>
<b>CHAPTER 3: Provision of Information in connection with Welsh Partnership Schemes and Franchising Schemes.</b>					
Bill Section 21 [079x] Inserts new section 143C into the Transport Act 2000, which includes subsection (4)(g).	Welsh Ministers.	Regulations.	Suitable for Regulations as gives Welsh Ministers the flexibility to specify additional types of information that may be obtained by local transport authorities from operators of local services which is not already provided in section 143C(4).	Negative.	The negative procedure is appropriate because the subject matter of the regulation is a relatively minor detail within the overall legislative provision for obtaining information from operators of local services. Limitations on the period for which information can be requested and the purposes for which the information can be used are applied within the provisions on the face of the Bill.
<b>PART 4: INFORMATION ABOUT LOCAL BUS SERVICES.</b>					
<b>Chapter 1: Provision of Service Information by Operators of Local Services.</b>					
Bill Section 23 [022].	Welsh Ministers.	Regulations.	Suitable for Regulations as enables Welsh Ministers to provide	Negative.	The subject matter of these regulations is a relatively minor detail

<b>Section</b>	<b>Power conferred on</b>	<b>Form</b>	<b>Appropriateness of delegated power</b>	<b>Procedure</b>	<b>Reason for procedure</b>
Inserts new section 6BB into the Transport Act 1985 (including subsection (2)).			detail about the categories of information that may be required from bus operators where registered services are being cancelled or varied, and the time period within which information about revenue must be provided.		within the overall legislative provision relating to the disclosure of information. The categories of information are already prescribed by section 6BB(3), and a maximum time period provided for the provision of revenue information – which may only be requested for the purpose of exercise of functions under section 63 of the Transport Act 1985 – by section 6BB(4)(b).
Bill Section 23 [022].  Inserts new section 6BC into the Transport Act 1985	Welsh Ministers.	Regulations.	Suitable for Regulations as gives Welsh Ministers the flexibility to prescribe the persons – other than those already set out in section 6BC(2) – to whom a local transport authority may disclose	Negative.	The subject matter of these regulations is a relatively minor detail within the overall legislative provision relating to the disclosure of information.



<b>Section</b>	<b>Power conferred on</b>	<b>Form</b>	<b>Appropriateness of delegated power</b>	<b>Procedure</b>	<b>Reason for procedure</b>
(to include subsection (2)(c)).			information obtained under section 6BB(3)(a), and the purposes for which that information may be used.		
<p>Bill Section 23 [022].</p> <p>Inserts new section 6BC into the Transport Act 1985 (to include subsection (9)(b)).</p>	Welsh Ministers.	Regulations.	Suitable for Regulations as gives Welsh Ministers the flexibility to prescribe further categories of persons to whom another local authority may disclose information obtained under section 6BB(3)(a) by onward sharing, and the purposes for which it may be used.	Negative.	The subject matter of these regulations is a relatively minor detail within the overall legislative provision relating to the disclosure of information.
<p>Bill Section 23 [022].</p> <p>Inserts new section 6BD into the Transport Act 1985 (to include subsection (1)).</p>	Welsh Ministers.	Regulations.	Suitable for Regulations as gives Welsh Ministers the flexibility to make supplemental provision in relation to the provision of service information by operators of local bus services, where a registered bus service is being varied	Negative.	The subject matter of these Regulations is technical in nature, and it may be appropriate for the subject matter of these regulations may need to be periodically updated to reflect changing requirements

<b>Section</b>	<b>Power conferred on</b>	<b>Form</b>	<b>Appropriateness of delegated power</b>	<b>Procedure</b>	<b>Reason for procedure</b>
			or cancelled, and the disclosure of that information.		regarding the disclosure of service information.
<p>Bill Section 23 [022].</p> <p>Inserts new section 6BD into the Transport Act 1985 (to include subsection (3)).</p>	Welsh Ministers.	Regulations.	Suitable for Regulations as gives Welsh Ministers the flexibility to vary the period beyond which information may not be required from an operator under the powers set out in Section 6BB(4) of the 1985 Act.	Negative.	<p>The subject matter of these regulations is a relatively minor detail within the overall legislative provision relating to the disclosure of information.</p> <p>Limitations on the type of information that can be disclosed and the purposes for which that information can be used are applied within the provisions that appear on the face of the Bill.</p>
<p>Bill Section 23 [022].</p> <p>Inserts new section 6BD into the Transport Act 1985</p>	Welsh Ministers.	Regulations.	Suitable for Regulations as enables Welsh Ministers to provide, for a traffic commissioner not to accept an application to vary or cancel a local service	Negative.	<p>The subject matter of these regulations is a relatively minor detail within the overall legislative provision relating to the</p>

<b>Section</b>	<b>Power conferred on</b>	<b>Form</b>	<b>Appropriateness of delegated power</b>	<b>Procedure</b>	<b>Reason for procedure</b>
(to include subsection (4)).			where an operator has failed to comply with a requirement to provide information.		disclosure of information.
Chapter 2: Power to require information about bus services					
<p>Bill Section 24 [021].</p> <p>Inserts new section 141B into the Transport Act 2000.</p>	Welsh Ministers.	Regulations.	Suitable for regulations as enables Welsh Ministers to prescribe the detail on requiring prospective and current bus operators, local authorities and the traffic commissioner to provide information about bus services operating in Wales. The information gathered using this power will allow for the creation of a comprehensive open data set for the bus services that are available across Wales, which could be made	Affirmative.	The power to compel parties to provide prescribed information confers further significant powers on the Welsh Ministers and it is appropriate that the regulations are approved in plenary. In addition, the regulations will have been subject to extensive consultation with operators, users of services and relevant organisations.

Section	Power conferred on	Form	Appropriateness of delegated power	Procedure	Reason for procedure
			easily accessible to the public. The Bill places limitations on the types of information that can be requested and who the information can be disclosed to, and places an obligation on the Welsh Ministers to consult before making any regulations.		
PART 5: GENERAL					
Bill section 27(1) & (2) [101].	Welsh Ministers.	Regulations.	Suitable for regulations as enables Welsh Ministers to make supplementary, incidental or consequential provision; and transitory, transitional or saving provision that may amend, repeal or revoke any provision in: i. primary legislation made by the NAfW (Measure or an Act);	Affirmative – where regulations amend an Act or Measure.  Negative – where regulations amend other subordinate legislation.	Affirmative where the regulations enable provision to be made that amends provisions of Acts of Parliament, Assembly Measures or Acts of the Assembly, in which case the higher level of scrutiny is appropriate. Otherwise, the negative procedure applies.

<b>Section</b>	<b>Power conferred on</b>	<b>Form</b>	<b>Appropriateness of delegated power</b>	<b>Procedure</b>	<b>Reason for procedure</b>
			ii, an Act of Parliament; iii. subordinate legislation made under i or ii.		These changes are confined to being consequential etc., and linked to the purposes of the Act.
Bill section 28(2) [102].	Welsh Ministers.	Order.	Suitable for order because this provision enables Welsh Ministers to provide for commencement of the Bill.	No Procedure.	Commencement orders are technical in nature.

**Table 5.2: Summary of powers to make directions and to issue codes and guidance in the provisions of the Buses (Wales) Bill**

Section	Power conferred on	Form	Appropriateness of delegated power	Procedure	Reason for procedure
PART 2: SCHEMES FOR THE PROVISION OF LOCAL BUS SERVICES.					
Chapter 1: Welsh Partnership Schemes.					
<p>Bill Section 10(2) [078].</p> <p>Amends Section 123(1) and (2) of the Transport Act 2000.</p>	Welsh Ministers.	Guidance.	<p>Suitable for guidance powers as gives Welsh Ministers the flexibility to produce and update statutory guidance concerning Welsh partnership schemes, to support local transport authorities when carrying out their functions.</p> <p>The guidance will involve detailed narrative about technical matters, which would be inappropriate to place on the face of the Bill.</p>	No Assembly procedure.	Detailed provision about Welsh Partnership schemes is on the face of the Bill. The power to issue guidance is intended to facilitate the application of the primary legislation, and will be largely concerned with operational matters for which Assembly procedure is not appropriate.
Bill Section 12 [079b].	Welsh Ministers/ Welsh Ministers or	Direction.	Suitable as a direction-making power as it enables the Welsh Ministers (or the Secretary of State) to require local transport	No Assembly procedure.	Detailed provisions about Traffic commissioner functions where

<b>Section</b>	<b>Power conferred on</b>	<b>Form</b>	<b>Appropriateness of delegated power</b>	<b>Procedure</b>	<b>Reason for procedure</b>
Inserts new section 6K into the Transport Act 1985 (to include subsection 6K(4)).	the Secretary of State where the Welsh Partnership Scheme relates to an area in England and Wales.		authorities to carry out relevant registration functions regarding intra-area services where a Welsh partnership scheme is in force. These registration functions relate to the functions of the Traffic Commissioner, and facilitate the implementation of the Bill. For example, if local transport authorities cannot agree who is to be the “lead authority” under section 6K(2) of the Transport Act 1985 the Welsh Ministers may direct which authority must take responsibility.		Welsh partnership schemes are in force is on the face of the Bill. This is a limited direction-making power to ensure there is a local transport authority with responsibility for carrying out registration functions in relation to intra-area services. In such circumstances, Welsh Ministers or the Secretary of State may need to act quickly so not having an Assembly procedure is appropriate.

Section	Power conferred on	Form	Appropriateness of delegated power	Procedure	Reason for procedure
Chapter 2: Welsh Franchising Schemes.					
<p>Bill Section 14(1) [091A].</p> <p>Inserts new sections 124A, 124B, 124C and 124D into the Transport Act 2000 (to include subsection 124B(3)).</p>	Welsh Ministers.	Guidance.	Places a duty on the Welsh Ministers to produce guidance in relation to the matters an auditor is to take into account when considering an authority's assessment of its proposal to make a Welsh franchising scheme. These are technical matters, which facilitate the development and implementation of franchising schemes, and will involve detailed narrative which it would be inappropriate to place on the face of the Bill.	No Assembly procedure.	Detailed provision about the audit of an assessment of a proposed scheme is set out on the face of the Bill. The power to issue guidance is intended to facilitate the application of the primary legislation. This guidance will be largely technical and may need to be updated periodically and swiftly. Therefore, not having an Assembly procedure is appropriate.
<p>Bill Section 20 [094].</p> <p>Substitutes section 134A of the</p>	Welsh Ministers.	Guidance.	<p>Places a duty on the Welsh Ministers to produce guidance concerning:</p> <p>i. the preparation by local transport authorities of</p>	No Assembly procedure.	Detailed provision about the assessment of Welsh franchising schemes that local authorities must prepare is set out on



Section	Power conferred on	Form	Appropriateness of delegated power	Procedure	Reason for procedure
Transport Act 2000, to include new section 134A(1).			<p>assessments of proposed Welsh franchising schemes; and</p> <p>ii. the matters to be taken into account by local transport authorities when selecting an independent auditor to undertake a review of such assessments.</p> <p>Both categories of guidance support local transport authorities in discharging their local bus services franchising functions in the Bill, and will involve detailed narrative about technical matters which it would be inappropriate to place on the face of the Bill.</p>		<p>the face of the Bill. The duty of local authorities to appoint an independent auditor to undertake a review of its assessment is on the face of the Bill, and the legal requirements that a person must meet to qualify as an independent auditor are also set out on the face of the Bill. The power to issue guidance is intended to facilitate the application of the primary legislation, and support local transport authorities when carrying out their assessment functions, to include appointing an</p>

Section	Power conferred on	Form	Appropriateness of delegated power	Procedure	Reason for procedure
					independent auditor. This guidance also may need to be updated periodically and speedily, therefore not having an Assembly procedure is appropriate.
<p>Bill Section 20 [094].</p> <p>Substitutes section 134A of the Transport Act 2000, to include new section 134A(2).</p>	Welsh Ministers.	Guidance.	<p>Provides Welsh Ministers with the power to issue guidance to local transport authorities on the performance of their Welsh franchising scheme functions – other than those functions concerned with the preparation of assessments under section 124A of the Transport Act 2000, and the matters to be taken into account when appointing an independent auditor in accordance with section 124B of that Act.</p> <p>This power will be used to support local transport</p>	No Assembly procedure.	Detailed provision about Welsh franchising schemes is on the face of the Bill. The power to issue guidance is intended to facilitate the application of the primary legislation, and support local transport authorities when carrying out their franchising functions. It is likely that the guidance will need to be updated periodically. As such

Section	Power conferred on	Form	Appropriateness of delegated power	Procedure	Reason for procedure
			authorities when exercising their other Welsh franchising schemes functions in the Bill, and will involve detailed narrative about technical matters which it would be inappropriate to place on the face of the Bill.		it is considered that not having an Assembly procedure is appropriate.
<b>PART 3: LOCAL AUTHORITY BUS SERVICES</b>					
<p>Bill Section 22(2) [041].</p> <p>Inserts new Section 65A into the Transport Act 1985, including subsection 65A(6).</p>	Welsh Ministers.	Guidance.	<p>Enables the Welsh Ministers to issue statutory guidance to Local Authorities on exercising their functions to provide local bus services under new section 65A of the Transport Act 1985.</p> <p>This power will be used to support local transport authorities when exercising their functions to provide local bus services. Guidance issued using these powers will deal with technical matters, and will involve detailed narrative about technical matters which it would</p>	No Assembly procedure.	<p>Detailed provision about powers of councils in Wales to provide local bus services is on the face of the Bill. The power to issue guidance is intended to facilitate the application of the primary legislation. The guidance will deal with technical matters, and may need to be updated swiftly.</p>

Section	Power conferred on	Form	Appropriateness of delegated power	Procedure	Reason for procedure
			be inappropriate to place on the face of the Bill.		

## **PART 2 – REGULATORY IMPACT ASSESSMENT**

### **6. Chapter 6 – Regulatory Impact Assessment summary**

A Regulatory Impact Assessment (RIA) has been completed for the Bill and it follows below.

The RIA has been informed by assessment of potential costs and benefits, and engagement with key stakeholders, undertaken by independent consultants (Arup).

There are no specific provisions in the Bill which charge expenditure on the Welsh Consolidated Fund.

#### **Table A**

The following table presents a summary of the costs and benefits for the Bill as a whole. The table has been designed to present the information required under Standing Order 26.6 (viii) and (ix).

<b>Bus Services (Wales) Bill</b>		
<p><b>Preferred option:</b> Seek to bring about improvements in the planning and delivery of bus services in Wales through bringing forward:</p> <ul style="list-style-type: none"> <li>• Section 1: enabling legislation to provide local authorities with a suite of tools to use [£185.73m Cost, £274.36m Benefits; NPV £50.79m]; and</li> <li>• Section 2: legislation on open data and the provision of service information on deregistered services [£13.53m Cost, £37.28m Benefits; NPV £16.32m].</li> </ul>		
<b>Stage:</b> Introduction	<b>Appraisal period:</b> 2021/22 – 2035/36	<b>Price base year:</b> 2019/20
<b>Total Cost</b> <b>Total:</b> £199.3m <b>Present value:</b> £141.3m	<b>Total Benefits</b> <b>Total:</b> £311.6m <b>Present value:</b> £208.4m	<b>Net Present Value (NPV):</b> £67.1m

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### **Administrative cost**

<b>Costs:</b> <u>Section 1:</u> Transitional costs of £7.9m to Welsh Government for producing guidance for use by local authorities and for providing technical support, and recurrent costs of £8.93m over the 15 year period in respect of increased concessionary fares reimbursement to operators. Transitional costs of £15.21m to local authorities for preparing a Welsh Partnership Scheme (WPS), franchising and operating a bus fleet, and recurrent costs of £127.73m for administering WPSs and franchises, and operating a bus fleet (which represents £120.3m of the £127.73m recurrent cost, and is offset by revenue). <u>Section 2:</u> Transitional costs of £0.025m to Welsh Government for developing guidance. Recurrent costs for local authorities £6.5m for extracting and collating the data.			
<b>Transitional: £23.1m</b>	<b>Recurrent: £143.2m</b>	<b>Total: £166.3m</b>	<b>PV: £118.1m</b>
<b>Cost-savings:</b> No cost savings to Welsh Government or local authorities.			
<b>Transitional: £0m</b>	<b>Recurrent: £0m</b>	<b>Total: £0m</b>	<b>PV: £0m</b>
<b>Net administrative cost: £166.3m (£118.1m PV)</b>			

### **Compliance costs**

<u>Section 1:</u> Transitional costs of £2.87m to bus operators for WPS preparation, tendering for franchises, and recurrent costs of £23.09m for WPS management, contract compliance and upgrade of buses for franchises. For the operator sector, there are increased recurrent revenues for WPS and franchise operations (due to increased patronage), and some loss of annual profits from bus services transferred to control of the local authority; <u>Section 2:</u> Transitional costs of £0.5m to operators for upgrades to software / IT systems, and recurrent costs of £6.5m for data management.			
<b>Transitional: £3.4m</b>	<b>Recurrent: £29.6m</b>	<b>Total: £33m</b>	<b>PV: £23.1m</b>

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### Other costs

There are no 'other' costs for section 1 and 2.			
<b>Transitional: £0m</b>	<b>Recurrent: £0m</b>	<b>Total: £0m</b>	<b>PV: £0m</b>

### Unquantified costs and disbenefits

Section 1: WPS and franchising could also include investment by local authorities and bus operators in, for example, infrastructure and vehicles, and hence a higher level of patronage increase would be targeted.

Section 2: There would potentially be cost or resource implications for stakeholders as part of the engagement and consultation, which have not been costed. There may also be additional costs to the Welsh Government as a result of opportunities created by a comprehensive data set, which have not been costed due to difficulties in ascertaining the scale of scope, therefore these costs are not known, although they are likely to be minimal.

### Benefits

Section 1: Recurrent user (bus passenger) economic benefits of £132.08m will accrue due to monetised Generalised Journey Time (GJT) savings and are non-cash. Financial benefits of £123.97m for local authorities of franchising and local authority run bus services (of which the majority is direct fare revenue for local authorities operating buses). For operators, increased recurrent revenue of £18.31m for WPS and franchise operations. Other wider benefits would be expected, including health benefits from additional passengers walking, reduced carbon emissions and improved air quality if some car travellers switched to bus travel.

Section 2: The perceptual value of improved information to passengers is evaluated as a recurrent non-cash Generalised Journey Time (GJT) benefit of £32.5m. Improvement in information provision to prospective bus users would be likely to lead to an increase in patronage with a financial benefit of £0.89m to operators. Financial benefits equivalent to £3.9m would accrue for local authorities through efficiencies gained by improved availability of service information.

**Total: £311.6m**

**PV: £208.4m**

**Key evidence, assumptions and uncertainties**

Section 1: All costs and benefits are illustrative and will vary in practice based on local conditions. A detailed business case will be developed prior to implementation by a local authority. Bus infrastructure costs have not been included as such investment is not a direct outcome of the legislation. However, in some circumstances it may be appropriate to also invest in bus infrastructure – which could bring additional benefits.

Section 2: All costs and benefits are illustrative and will vary in practice based on local network and operators characteristics.



**7. Chapter 7: Regulatory Impact Assessment Options**

**7.1 Section 1: Enabling provisions options – Welsh Partnership Schemes, franchising and local authority run bus services**

7.1.1 The Welsh Government wants to ensure that local authorities have effective tools available to them, so they can look to address inefficiencies in bus service delivery in their areas. It is recognised, however, that there are different challenges in each local context and that this requires a new set of legislative tools, that will provide a flexibility of approach rather than a one size fits all approach.

7.1.2 As set out in Chapter 3, the current legislative provisions do not allow enough flexibility for local authorities to respond to the needs of their communities. By improving the legislative framework, the Welsh Government can provide local authorities with an appropriate range of tools for improving the planning and delivery of local bus services. In developing the proposals, a number of options were considered:

- Option 1 – business as usual and rely on existing legislative provisions;
- Option 2 – develop improved partnership arrangements;
- Option 3 – introduce new franchising powers;
- Option 4 – allow local authorities to operate bus services themselves; and
- Option 5 – legislate for options 2 – 4 which would facilitate local authorities to implement a combination of these options across Wales.

7.1.3 There is not a “one size fits all” approach to bus service delivery in Wales, and it essential that local authorities have the right tools available to them to ensure appropriate provision of bus services within their area. As such, our preferred option is option 5, which will provide a suite of tools for local authorities to be able to consider. The Welsh Government therefore intends to take forward legislation to:

- introduce Welsh Partnerships Schemes (WPSs), which will provide greater opportunity for collaboration between local authorities and bus operators, and to underpin an agreed set of measures to be

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implemented by both parties, aimed at making buses more attractive to potential users;

- introduce improved franchising powers, which will enable local authorities to contract with bus operators to operate potentially all services in a local network as a single unified network. This could include all services operating a single ticketing system and a single marketing, livery, and information set up; and
- allow local authorities to operate bus services directly, which will enable local authorities, either solely or working jointly, to provide local bus services in their or collective areas.

7.1.4 The proposals relating to WPSs, franchising and local authority run bus services are enabling provisions. They will put in place a range of legislative tools for local authorities to consider using when planning and delivering bus services. They are not prescriptive and local authorities will not be under a duty to make use of these tools.

7.1.5 If local authorities choose in future to make use of the legislative tools provided to them in the Bill, they will be expected to undertake a thorough business case. Local authorities will be able to choose (through robust investigation) whether to take forward proposals for improving bus services in their areas by putting in place WPSs, franchising arrangements, or choosing to run bus services directly; or they may decide not to proceed with any of these options but, for example, to use voluntary or informal partnerships with bus operators.

## **7.2 Section 2: Information sharing provision**

7.2.1 Clear, high quality and up-to-date information is essential for the smooth delivery and running of bus services. Today people have far greater expectations about the kind of information that should be available to them, and users want to be able to make informed choices based on easily available data.

7.2.2 Access to clear and accurate information about bus services is important for local authorities in supporting their local bus services. It is also

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important for software developers seeking to create services such as smartphone Apps and journey planning systems.

### 7.2.3 Two options were considered:

- Option 1 – business as usual – under this option the status quo would continue, both in terms of meeting customer needs when travelling and local authority needs when considering the provision of socially necessary services.
- Option 2 – introduce legislation on information sharing – under this option legislation would be introduced enabling the provision of open data which would result in public and local authority access to more consistent and reliable data on bus services. Legislation would also allow for the provision of service information following a proposal to deregister or vary a registered bus service.

### 7.2.4 The preferred option is option 2, to bring forward legislation in relation to the provision of information about bus services. This approach would ensure that bus users have access to consistent and reliable information about bus services in Wales. This approach would also ensure that local authorities have access to information about passengers, fares and revenue on services that are deregistered or varied to assist in their decisions around supported services and help them achieve greater value for money when tendering for those services.

**8. Chapter 8: Regulatory Impact Assessment Costs and Benefits**

**8.1 Introduction**

- 8.1.1 This chapter outlines the costs and benefits for the proposed legislation, focusing on the additional costs and benefits incurred or generated only from implementation of the legislative tools.
- 8.1.2 In practice, it is possible that implementation of the legislative tools by local authorities would also include a range of supporting investment in transport infrastructure, or policy measures (such as parking availability or charges) – in which case scheme-specific detailed business case investigations would be needed to justify capital investment. Hence, the legislative tools can be considered as enabling measures which could provide an enhanced ability for local authorities to lock in benefits of continued investment in measures such as on-street or bus station infrastructure, low emission bus fleets, or future policy measures such as low emission zones.
- 8.1.3 It should therefore be noted that the passenger benefits and patronage increases estimated for this impact assessment represent a ‘minimum’ outcome as they only consider the implementation of the legislation proposals themselves without any other supporting interventions such as transport infrastructure or policy measures. In practice, implementation of bus improvements at a local level may be accompanied by other supporting measures which would enable significantly higher passenger benefits and patronage increases to be accrued.
- 8.1.4 It is also emphasised that the costs and benefits identified in this impact assessment are indicative and subject to significant uncertainty – and hence do not represent a ‘business case’ for implementation at a local level. Local authorities planning to implement measures based on the legislation tools must, in all cases, investigate the detailed costs and benefits – which could only be able to be estimated once the bus network and associated proposals have been devised (and which could include additional infrastructure or policy measures not included in the direct scope of the legislation proposals).
- 8.1.5 Estimates of costs and benefits are provided as financial (cash) amounts and economic (non-cash) values as follows:
- financial costs or additional revenues to operators, set up costs for Welsh Government and local authorities, ongoing costs for Welsh

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Government (including costs or savings of concession fare reimbursement), ongoing costs for local authorities (including costs of bus operations where applicable).; and

- economic benefits or disbenefits to passengers based on monetised values of Generalised Journey Time (GJT) savings in response to improved co-ordination of services, better ticketing and information, in accordance with the Department for Transport's Transport Appraisal Guidance

8.1.6 A detailed explanation on the methodology for the assessment in this RIA is set out in Appendix 2.

### **Stakeholder Engagement**

8.1.7 Stakeholders represent a significant source of information and experience. Engagement on the draft Regulatory Impact Assessment (RIA) was undertaken with key stakeholders including local authorities and bus operators between 23 July 2019 and 3 September 2019. Chapter 4 explains the engagement process in more detail. The cost assumptions within this RIA have been revised based on the feedback received, most notably as follows:

- transition (set up) costs for Welsh Government to prepare guidance for WPSs and franchising, to reflect the level of guidance and legal advice needed on how these arrangements would be structured;
- transition (set up) costs for local authorities to reflect the amount of planning and preparation costs if a franchise is to be successful;
- recurring costs associated with franchising have been assessed for operators and local authorities; and
- costs for operators in relation to the potential to upgrade IT, software or ticket machine systems to meet open data requirements.

### **Chapter Structure**

8.1.8 The remainder of this chapter sets the costs and benefits for each policy in turn, and is structured as follows:

- Section 1: outlines the costs and benefits of each enabling provision (WPSs, franchising and local authority run bus services);
- Section 2: outlines the costs and benefits associated with the introduction of legislation on information provision

**8.2 Section 1: Enabling provisions – Welsh Partnership Schemes, franchising and local authority run bus services**

**Aspects included**

- 8.2.1 The legislation for WPSs, franchising and local authority run bus services does not require local authorities to necessarily commit to new bus infrastructure (for example, bus stops, bus interchanges, bus lanes), so the costs and benefits identified in this section does not include any on-street bus infrastructure costs.
- 8.2.2 The Welsh Government has historically provided funding to local authorities to invest in bus infrastructure, and the programme of funding is unaffected by this proposed legislation. It is intended that with legislation in place, local authorities will be able to target funding in a more effective way by ensuring that bus infrastructure is better aligned with bus network arrangements. It will be important to maximise existing investment in bus services and it is the expectation that greater efficiency and effectiveness can be achieved within existing resources.
- 8.2.3 Should a local authority decide to bring forward proposals for using one of the legislative tools, (for example, putting franchising in place or making a WPS), the decision to proceed would be informed by detailed assessments of the implications of the proposal, which would include a full financial assessment and cost benefit analysis. The local authority would also need to assess whether investment in bus infrastructure would be desirable to complement the introduction of the proposals in order to secure greater benefits.

**Modelling Costs and Benefits**

- 8.2.4 The proposals relating to WPSs, franchising and local authority run bus services are enabling provisions. They will provide local authorities with a range of tools they can consider using when planning and delivering bus services. As such, the financial implications of the legislation could vary considerably and would depend on the circumstances of the local authorities and proposals being taken forward. Therefore, the assessment carried out provides an estimated indicative range for potential financial costs and benefits.
- 8.2.5 The economic assessment model prepared for this RIA utilises

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demographic data, bus passenger statistics, and financial statistics for the three network examples (and for the whole of Wales), available from Government sources<sup>15</sup>. Costs and benefits have been assessed for the three types of Welsh network (major urban, town urban and rural), which have then been extrapolated on a pro-rata basis to an all-Wales level according to the annual bus mileage figures. The basis and build-up of costs and benefits is described further in Appendix 1 and Appendix 2.

- 8.2.6 Costs have been estimated for initial set-up activities by the Welsh Government, local authorities and operators. Annual recurrent costs have been estimated for local authorities, operators and bus users, as have revenue and economic benefits.
- 8.2.7 The three types of local authority area utilised in the assessment provide a basis for estimating ranges of costs and benefits – with higher costs and benefits in major urban areas, and lower costs and benefits in rural areas. For the calculation of all-Wales costs and benefits, these local authority outputs have been factored on a pro-rata basis using bus vehicle-km.
- 8.2.8 Estimates of set-up and recurrent costs have been developed using the professional judgement of Welsh Government civil servants, Transport for Wales staff and transport consultants commissioned to support the preparation of this RIA, and are necessarily indicative at this stage. Where relevant, estimates have been cross-checked by equating the costs to an approximate equivalent Full Time Equivalent (FTE) staff resource, and references have been made from published documentation where appropriate. Additionally, cost estimates have been reviewed through discussion with stakeholders across the bus industry in Wales. It is noted that the costs identified represent additional costs over and above current costs.
- 8.2.9 The primary mechanism through which bus improvements translate into higher demand and benefits for users is through adjustments to the actual or perceived cost of travel. An industry-standard approach has been taken to estimating benefits drawing on the UK Government's WebTAG transport guidance which provides detailed guidance on technical aspects of transport economic appraisal<sup>16</sup>. The RIA economic assessment model considers estimates of the impact of the interventions for each option on bus patronage, based on calculating the Generalised Journey Time benefits of each relevant change. Appendix 2 provides a description of the

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<sup>15</sup> <https://www.gov.uk/government/collections/bus-statistics>

<sup>16</sup> <https://www.gov.uk/guidance/transport-analysis-guidance-webtag>

approach taken.

- 8.2.10 As outlined previously, should a local authority decide to bring forward proposals for using one of the tools, its decision to proceed would be informed by a detailed assessment. If none of the tools are adopted by any local authority, then there will be no implementation costs or benefits to that local authority, bus operators and bus users. However, consideration of the use of the tools by local authorities would likely incur costs, for example in preparing a business case for franchising, even if the decision was taken not to proceed. This cost of initially considering options, but then not proceeding with any of the three legislative tools, has not been included, on the basis that the investigations carried out would in any case be expected to be utilised in planning measures to improve bus services in the relevant area.

### **Timeframes**

- 8.2.11 It is assumed the earliest the Bill would receive Royal Assent would be in April 2021, subject to the will of the Assembly. Following Royal Assent, the current working assumption is that the subordinate legislation to implement the Bill would not come into force before April 2022. A further assumption has been made that it may take up to three years (i.e. 2025/26 onwards) before local authorities and operators start to actively utilise the tools described in Chapter 7. Given the time it will take until some of the tools are adopted an assessment over the 15 years from 2021/22 to 2035/36 is deemed appropriate to allow enough time to evaluate the costs and benefits from implementing the various options.
- 8.2.12 In line with HM Treasury Green Book guidance, future costs and benefits have been discounted using the Treasury's central discount rate of 3.5%<sup>17</sup>.
- 8.2.13 Making a prediction of exactly what may happen to bus patronage in the next 15+ years is complicated as there are many factors to consider. Some of the factors that influence travel behaviours and patterns include growth rates in the economy and employment, commuting patterns, changes in shopping and leisure habits, growth in home deliveries, rates of car ownership, car parking provision and cost, demographic changes, journey time reliability and fuel prices. The assessments in this RIA are necessarily outline in nature, and local authorities will need to carry out bespoke investigations for their local area prior to carrying out changes to

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<sup>17</sup>[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/685903/The\\_Green\\_Book.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/685903/The_Green_Book.pdf)



the way buses are operated.

**Costs of option 1 – business as usual**

- 8.2.14 There are no additional up-front costs to the Welsh Government, local authorities, bus operators or users associated with this option, although there could be greater ongoing subsidy costs to maintain current service levels
- 8.2.15 However, given the decline in bus patronage in recent years, it is fair to conclude that without action passenger numbers will continue to decline, which would have cost implications. With no change in policies, the UK Department for Transport estimates that Welsh bus patronage will fall by 10% between 2017/18 and 2035/36 (around 0.6% per annum)<sup>18</sup>.
- 8.2.16 Currently, 77% of the c.99 million kilometres of bus trips in Wales each year are on services that operators provide commercially<sup>19</sup>. The decline in bus patronage is likely to lead to a reduction in the commercial viability of many services. The potential cost implication of this decline is that more public sector funding would potentially be needed to support the network and maintain socially necessary services. It is difficult to predict how many bus services operators are likely to decide to stop providing, and of those services, how many local authorities would decide to subsidise, if any.
- 8.2.17 However, given the current financial climate and pressures, it is unlikely that more public funding to support services would be available. This would mean that the provision of bus services would continue to reduce. This could lead to increased reliance on the private car and subsequent negative impacts on congestion and the environment.

**Benefits of option 1 – business as usual**

- 8.2.18 Maintaining the status quo is likely to result in the continued decline in patronage placing greater pressure on local authorities and bus operators to review networks with a risk of service withdrawals. This option is the baseline for assessment of the legislative options and hence the costs

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<sup>18</sup> The Department for Transport's NTEM (National Trip End Model) bus use projections are presented in a software package called TEMPro (Department for Transport. TEMPro & NTEM data release notes and frequently asked questions: Additional guidance. December 2016. Accessed at: <http://assets.dft.gov.uk/s3.amazonaws.com/tempro/ntem/ntem7.1-release-notes-faqs.pdf>). The data in NTEM is not based on observations or fare data, but is derived from Census data and forecast patterns of population and employment.

<sup>19</sup> Accessed at: <https://statswales.gov.wales/Catalogue/Transport/Roads/Public-Service-Vehicles/vehiclekilometresandpassengerjourneysonbusesandcoaches-by-year>

and benefits of those options are calculated in terms of the change from the business as usual costs.

- 8.2.19 There would be a possible dis-benefit in that the decline in availability of services could also lead to an increase in social isolation and limited access to employment opportunities, where people are left with few alternatives for getting around and therefore cease to take trips they previously would have done.

**Costs of option 2 – Welsh Partnership Schemes**

- 8.2.20 WPSs could range from a few services along a specific corridor within a local authority area, to all bus services within a local authority area. Should a local authority decide to bring forward proposals for a WPS, the decision to proceed would be informed by detailed assessments of the implications, which would include a full financial assessment and cost benefit analysis.
- 8.2.21 Future consideration by local authorities of implementing a WPS would be assisted by availability of detailed guidance on the types of measures available and any legal considerations (for example, competition issues). The guidance will require local authorities to undertake a detailed financial assessment. It is assumed therefore that the Welsh Government will produce guidance on WPSs, and it is estimated that the cost would be approximately £100k. This cost will be incurred in the 2021-2022 and 2022-2023 financial years.
- 8.2.22 Patronage uplifts of less than 1% are estimated for WPSs, which would result through to higher payments for concessionary and mytravelpass reimbursement, with an estimated additional annual revenue cost to the Welsh Government of up to £1.5m (£70k for each local authority area).
- 8.2.23 Local authorities would incur costs in developing a WPS through gathering information, analysing the bus market, holding and attending meetings with bus operators, seeking legal guidance and following the procedural steps for developing and making a WPS. This could include the use of consultants. The costs for a local authority are estimated to be

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£60k for a rural network, £90k for a town urban network, and £120k for a major urban network<sup>20</sup>.

- 8.2.24 Bus operators would also incur costs in setting up a WPS - attending meetings with local authorities, seeking specialist legal advice and reaching an agreement with local authorities for a WPS. The additional costs per bus operator is estimated to be £50k for a rural network, £75k for a town urban network, and £100k for a major urban network. For modelling purposes it is assumed that there are two operators in each WPS, and hence operator set up costs per local authority area will range from £100k to £200k. Bus companies already have discussions with local authorities on issues such as timetables and scheduling and other aspects (e.g. information) of their bus operations. A WPS will formalise discussions on these aspects with local authorities, with a need for more formalised meetings and consultations, and consideration of measures and intended outcomes. Set up costs will be higher than this if operators agree as part of a WPS to buy/lease newer buses, or to send all drivers and passenger-facing staff on customer care training. All of these costs are new costs for operators.
- 8.2.25 The new costs of WPSs included in this RIA do not include local authority investment in bus infrastructure, nor costs to operators for, for example, to buy/lease newer buses. These type of investments may be agreed as part of the partnership, but they are not a specific requirement of the WPS process.
- 8.2.26 Furthermore it is clear that operators are only likely to sign up to a WPS if they expect to make higher profits from projected patronage increases that in the long run will offset the investment costs. Hence, costs of major investment by operators have not been included in this RIA analysis.
- 8.2.27 The management of a WPS will require ongoing resource requirements for local authorities to administer and monitor the plan, including stakeholder meetings and handling issues such as complaint resolutions. Depending on the scale of the partnership, this could be up to the equivalent of up to ½ FTE per year, with costs of £15k per year for a rural network, £20k per year for a town urban network, and £25k per year for a major urban network. A similar annual cost is assumed for bus operators.
- 8.2.28 All of the above estimated costs are summarised in Table 1.

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<sup>20</sup> A summary of cost assumptions is provided in Appendix 1.

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Table 2: Estimated costs for WPSs (£'000) for a single local authority area

Organisation type	Cost Item	Welsh Government	Local authorities	Operators *	Users	Total
Welsh Government	Producing guidance**	100			-	<b>100</b>
	Recurring costs p.a.	80	60	60		
	Total					
Major urban network	Set-up costs	-	120	200	-	<b>320</b>
	Recurring costs p.a.	70	25	25	-	<b>120</b>
Town urban network	Set-up costs	-	90	150	-	<b>240</b>
	Recurring costs p.a.	10	20	20	-	<b>50</b>
Rural network	Set-up costs	-	60	100	-	<b>160</b>
	Recurring costs p.a.	-	15	15	-	<b>30</b>

Note: All costs and benefits are illustrative and will vary in practice based on local conditions. A detailed business case will be developed prior to implementation by a local authority.

\* The recurring and set up costs for operators exclude any additional investment in buses.

\*\* Welsh Government costs are for providing guidance for multiple authorities

### **Benefits of option 2 – Welsh Partnership Schemes**

- 8.2.29 The benefits of an effective WPS could include a more efficient bus network for local authorities, improved operating viability for bus operators and improved services for passengers along with potential for increased patronage. For example, if a WPS was established that resulted in coordinated timetables, common ticketing arrangements, and better information, then buses in that area would become more attractive as a means of transport. This in turn is likely to increase bus patronage resulting in financial benefits for the bus operators in the partnership.
- 8.2.30 Modelling of benefits estimates a patronage uplift of less than 1% for WPSs. This estimate of 1% is for the benefit arising from the legislation alone, and does not account for additional investment. Any subsequent investment would likely raise this uplift. Therefore, setting up a WPS would target higher patronage increases than estimated for this RIA – with a consideration of a range of infrastructure and vehicle investment measures to bring about a set-change in service quality.

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- 8.2.31 In agreeing a WPS, operators are likely to have assessed that the additional revenue generated will offset operating costs and the set-up costs. The estimated demand uplifts for the three network types generates a corresponding economic benefit of between £90k and £1.2m and an operator revenue increase of up to £180k per annum – as set out in Table 2 for three example networks.

Table 3: Estimated benefits for an WPS (£'000) for a single local authority area

Organisation type	Benefits item	Welsh Government	Local authorities	Operators	Users*	Total
Major urban network	Financial impacts p.a.	-	-	180	-	<b>180</b>
	Economic impacts p.a.	-	-	-	1,190	<b>1,190</b>
Town urban network	Financial impacts p.a.	-	-	20	-	<b>20</b>
	Economic impacts p.a.	-	-	-	290	<b>290</b>
Rural network	Financial impacts p.a.	-	-	5	-	<b>5</b>
	Economic impacts p.a.	-	-	-	90	<b>90</b>

Note: All costs and benefits are illustrative and will vary in practice based on local conditions and the extent to which the local authority has rural, urban town and major urban areas within it.. A detailed business case will be developed prior to implementation by a local authority. \* User benefits are based on monetised Generalised Journey Time (GJT) savings and are non-cash.

- 8.2.32 The actual benefits for bus users would depend on what requirements are included in a WPS. It could include fare simplification, improved journey times, easier to understand bus routes and timetables and services at more convenient times. There could also be health and environmental benefits arising from modal shift – for example, from an increase in physical activity and reductions in congestion - although this has not been included in the modelled benefits.

In addition, modal shift to bus will also provide benefits to Local Authorities. Whilst these generally are not ‘pure cash’ benefits (such as

increased fare box revenue) they will have a positive impact on local and national policies. These include reduced congestion, improved access to employment and services, improved air quality, increased levels of resident satisfaction and increased footfall at key economic centres.

### **Summary of costs and benefits of option 2 – Welsh Partnerships Schemes**

- 8.2.33 Modelling of the costs and benefits impact of WPSs indicates that overall economic benefits would outweigh costs. This is being driven principally by the passenger benefits. WPSs in major urban areas, town urban, and rural areas will necessarily have different characteristics, and local authorities will need to carefully consider their aims in terms of patronage, social inclusion and catchments – as well as wider policy and economic objectives – when developing business cases. Depending on specific local circumstances, WPSs could be viable and boost patronage, particularly if both the local authority and the operators invest in the service – the local authority with bus infrastructure and the operator possibly with improvements of bus vehicle quality and ticketing (for example).
- 8.2.34 As outlined, potential bus infrastructure investment costs have not been included in the quantified impacts as such investment is not a requirement of a WPS. However, and as described above, in some circumstances it may be appropriate or desirable for a local authority to invest in bus infrastructure as part of a WPS. The following example provides an indication of what a local authority may provide:

*For a local authority with a busy market town with surrounding villages, it is possible that in addition to pro-bus policy measures a WPS may need phased upgrading of 25% of bus stops at a cost of c.£500k, and c.£2.5m on bus priority measures involving traffic management measures aimed to speed up bus journey times at pinch-points.*

*Investments such as these would bring additional benefits to those modelled, through travel time savings and the perceived ‘value’ to users from being able to wait at higher quality bus stops. Additionally, higher patronage will boost operators’ profits and enable them to consider opening new bus routes or improving bus frequencies.*

### **Costs of option 3 – franchising**

- 8.2.35 A franchise enables a local authority to issue a contract or number of contracts to run all bus services in a particular area.

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- 8.2.36 Franchising powers could be used to implement a very wide range of models from a specific corridor to a whole local network which could cover most of a local authority area, or even more than one local authority area. This RIA does not draw conclusions as to the area or type of franchising to be used by local authorities or assume implementation of 'gross cost' or 'net cost' arrangements, or pre-judge ownership of assets or private versus public investment. In a gross cost contract, the local authority retains the revenue and therefore carries the financial risk, and in a net cost contract the operator/s retain the revenue and financial risks. Should a local authority decide to bring forward proposals for a franchise, the decision to proceed would be informed by detailed assessments of the local business case. Such flexibility makes it difficult to estimate the costs of franchising without developed propositions in real locations, and as such a wide cost range is presented.
- 8.2.37 It is likely that, in practice, a franchising proposal may also include consideration of the costs and benefits of new bus infrastructure, new buses, or greener propulsion systems. These types of investments have not been included in this RIA analysis as they are not direct requirements of the franchising process.
- 8.2.38 There would be a cost to the Welsh Government in developing and issuing guidance for local authorities on franchising. Guidance will need to be prepared to provide clarity on the process or preparing business cases (assessments) for franchising and the auditing of those assessments. Guidance will also likely be issued in relation to operation of franchising schemes to include the issuing of contracts. A set-up cost of £1m is included. It is expected that this cost will be incurred in the 2021-2022 and 2022-2023 financial years.
- 8.2.39 The Welsh Government may also consider that the most efficient approach, should local authorities decide to undertake a franchise, may be to provide support to tackle issues, such as franchise configuration, procurement, and guidance on contract management, implementation, transition, governance and compliance, at a strategic level. An allowance of £5m-£8m has been made for Welsh Government support to address these potential additional set-up issues for an initial assumed 5-6 authorities (representing about a quarter of the local authorities in Wales), with a similar amount to assist the remaining authorities if they proceed with franchising (to reflect economies of scale and experience).
- 8.2.40 The costs to local authorities of setting up an individual franchise could also be considerable, but would depend on the content, scale and scope

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of the franchise. When introducing franchising for the first time, local authorities would incur costs on a range of processes to confirm the value for money of franchising and on preparation for implementation.

- 8.2.41 A local authority investigating franchising has numerous implementation options to consider – such as whether to create a single franchise for a whole area or to franchise smaller groups of services, and whether to stagger the timing of franchise tenders.
- 8.2.42 The costs to local authorities in setting up a bus franchise would vary significantly across Wales, given the uncertainties involved. For example, the costs are likely to be lower in some of the rural local authorities, where a significant proportion of bus services are already tendered and contracted through section 63 contracts. The costs are expected to range from £500k -£1m in rural network areas, £1m - £2m in town urban network areas and between £2m - £5m for complex commercial networks in major urban areas, where there may be very few subsidised services. It may also be the case that, after some initial franchises in Wales have been successfully delivered, the learning experience will enable future franchising costs for other local authorities to be proportionately less.
- 8.2.43 There is potential for economies of scale with implementing franchising, both on the cost side, but also in developing schemes which capture benefits across local authority boundaries. For example, local authorities may decide to combine resources to franchise across a larger area, which could result in savings in terms of staff resources and consultancy/legal support.
- 8.2.44 For future franchises, with a franchised bus network and associated contractual and organisational aspects already in place, local authority costs are estimated to be half of the lower end of first round costs, at £250k for a rural area, £500k for a town urban area, and £1m for a major urban area.
- 8.2.45 The costs to operators for competing/tendering for franchising is estimated to be between £250k, £500k and £1m (for rural, town urban and urban networks respectively) assuming four tenders are received.<sup>21</sup> It will be important that local authorities provide high quality information and data on existing bus performance (for example, bus speeds and patronage) to bidders such that the prospective operators do not need to

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<sup>21</sup> Costs are estimated as set out in Appendix 1.



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spend resources on investigating current bus network characteristics and developing their own database.

- 8.2.46 It is assumed for purposes of this RIA that a franchising scenario will include bringing all buses in a local fleet up to common standard in respect of branding and a minimum level of quality. The cost for an individual single-deck bus upgrade is estimated as £25k<sup>22</sup>, to cover the cost of vehicle refurbishment and re-branding, including refurbishing seating and flooring, livery, and installing Wi-Fi and 4G mobile. However, given that some buses already have these features, an overall average cost of £15k per bus is assumed. For the purposes of calculations, it has been assumed the major urban network has 225 buses, the town urban network has 90 buses, and the rural network has 65 buses. The total number of buses in Wales (2,150) is identified in the TAS report<sup>23</sup> for Welsh Government. Arup has apportioned the number of buses for each network type, initially on a pro-rata basis based on bus.km in each local authority area (from a GIS database of all bus routes) – which has then been averaged for the three types of network area.
- 8.2.47 Costs associated with acquisition of a fleet by a successful tenderer (either by buying or leasing) have not been included as it is assumed that such costs are included in the normal amortisation of ‘capital’ costs of vehicles into the annualised operational costs for a bus fleet; that is, it is assumed that the ‘franchised fleet’ would have the same average age as the current fleet. A local authority may in practice request a reduced average age as part of their tender requirements – but this is not a requirement of the legislation.
- 8.2.48 Costs of depots for bus operators have not been included in the franchise costs assessment as an add-on item, on the basis that operators bidding will need to include their depot cost overheads in the operational costs (as would be the case now for existing operators). It is acknowledged that depot costs could influence overall bus operator costs, and that new entrants seeking to win a franchise tender may need to purchase a depot,

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<sup>22</sup> £25k cost for refurbishing a double decker bus. Accessed at: [http://www.route-one.net/articles/Vehicles/Refurb\\_is\\_better\\_than\\_new](http://www.route-one.net/articles/Vehicles/Refurb_is_better_than_new)

<sup>23</sup> <https://llyw.cymru/sites/default/files/publications/2017-08/trawsnewid-buddsoddiad-mewn-bysiau-yng-nghymru-fflyd-bysiau-cymru.pdf>

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and the arrangements for depot ownership (or leasing) will need to be addressed within the local authority's planning for franchising.

- 8.2.49 Once franchise contracts are introduced they would be retendered at specific times – and it would be expected that contracts would run for a period of five to ten years to achieve a degree of network stability and optimum contract price (although initial contracts in Wales may be for less time with options for extension). For this RIA it is assumed that franchises would be retendered every seven years and the tendering costs of the new franchise contracts are likely to be less than for the initial contract – as the initial franchise operation would have given the local authority significant insight into the operational characteristics, costs and patronage of the bus network. It is assumed that operator costs for bidding for the second franchise will be half the cost of the lower end of the first round as there will be more data provided to operators on operational details (such as bus speeds) and the likelihood of judicial review challenges will be lower. Bus refurbishment costs are estimated to be 75% of the cost of the first round of franchising as some second-round franchises will be won by incumbents.
- 8.2.50 Local authorities would incur ongoing costs for franchising. They would need to monitor performance of the operators over the duration of the contracts and deal with complaints etc. Many local authorities already perform these functions for their subsidised services. However, there are likely to be additional requirements, particularly if the form of contract moves from a net cost to gross cost contract. The requirements will vary depending on the scope of the franchise and the proportion of section 63 contracts already being managed by the local authority. It is estimated that the administrative costs per local authority could be between £50K to £225k per year for additional resources required to monitor performance, manage contracts and reconcile accounts.
- 8.2.51 When an operator is unsuccessful in bidding for a franchise they would no longer be able to run services in that section of the market, which would impact on their revenue or potentially lead to an operator ceasing to trade. They would also lose the opportunity to recover the costs of bidding. However, much in the same way as losing a section 63 subsidised bus tender, they could still run buses in other areas without franchises and bid for other franchising and subsidised section 63 contracts.
- 8.2.52 For the purposes of modelling for the RIA, it is assumed that the bus kilometres in a franchised network is the same as the present network – but with rationalisation to address issues such as over-bussing, where two

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operators compete on the same route; and excess capacity, when an incumbent operator is concerned about the risk of competition on profitable routes and timetables too many buses on that route to discourage competition. In addition, a franchised network would be expected to put in place coordination between services to improve the arrangements for passengers to transfer between services, and to ensure consistent and spaced-out headways between services – which provides more reliability for passengers and removes bus-on-bus congestion at stops.

- 8.2.53 In respect of over-bussing and excess capacity, the Competition Commission's 2011 research into the competitiveness of the bus industry in Great Britain<sup>24</sup> made a number of relevant points, notably:

*"We found that 46% of routes, accounting for 63% of services in the reference area, do not face effective head-to-head competition. Only 3% of routes, accounting for 1% of weekly services, are likely to face effective head-to-head competition. For the remaining routes, a lack of flow-level information prevented us drawing firm conclusions on the extent to which they faced head-to-head competition. Nevertheless, the extent of overlap faced by these routes suggested that, at least in a substantial number of cases, a large proportion of passengers on these routes were unlikely to have a choice of operator" (page 10); and*

*"the process of head-to-head competition, driven by an incentive to increase frequency, could in some circumstances lead to the creation of excess capacity (i.e. more buses being run on the route than can attract sufficient revenue to cover costs). This may reduce the profitability of operators and result in their becoming loss-making. An operator will have an incentive to add services, and it will do so as long as the effect is to add more revenue than the increase in costs. Excess capacity can arise as the competing operators would each add extra services because individually these extra services can be timed so as to take revenue from the rival operator's services (by running shortly ahead of them) and scheduled to maintain or improve the individual operator's network advantages" (page 8-8).*

- 8.2.54 There will be higher administrative costs for the franchisee reporting data to the local authority, but these higher costs are assumed to be offset against efficiencies the franchisee would gain by being the sole provider of services in the franchise area for the duration of the contract.
- 8.2.55 In terms of revenue costs for the Welsh Government, patronage uplifts (see paragraph 8.2.59) will mean that concessionary and youth travel will

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<sup>24</sup> Competition Commission. *Local bus services market investigation: A report on the supply of local bus services in the UK (excluding Northern Ireland and London)*. December 2011.

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rise, which would increase the costs to the Welsh Government of supporting the concessionary travel scheme and the mytravelpass travel scheme. The additional annual costs to the Welsh Government could be £35k per year in rural areas, £95k in town urban and £570k in major urban areas. Table 3 summarises the estimated costs for franchising identified.

Table 4: Estimated costs for franchising (£'000) for a single local authority area

Organisation type	Cost Item	Welsh Government	Local authorities	Operators *	Users	Total
Welsh Government **	Producing guidance Support for Local Authorities	1,000 *				
	- say 25% of authorities	6,500	-	-	-	14,000
	- remainder of authorities	6,500				
	Recurring costs p.a. Total	700	400	-		
Major urban network	Set-up costs	-	3,500	4,375	-	7,875
	Recurring costs p.a.	570	225	-	-	795
	Re-franchise costs year 7	-	1,000	3,030	-	4,030
Town urban network	Set-up costs	-	1,500	1,850	-	3,350
	Recurring costs p.a.	95	125	-	-	220
	Re-franchise costs year 7	-	500	1,265	-	1,765
Rural network	Set-up costs	-	750	1,225	-	1,975
	Recurring costs p.a.	35	50	-	-	85
	Re-franchise costs year 7	-	250	855	-	1,105

Note: All costs and benefits are illustrative and will vary in practice based on local conditions and the extent to which the Local Authority has rural, urban town and major urban areas within it. A detailed business case will be developed prior to implementation by a local authority.

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\* Operators set up costs include the costs for refurbishing buses at the start of the concession.

\*\* Welsh Government costs are for supporting multiple authorities as indicated

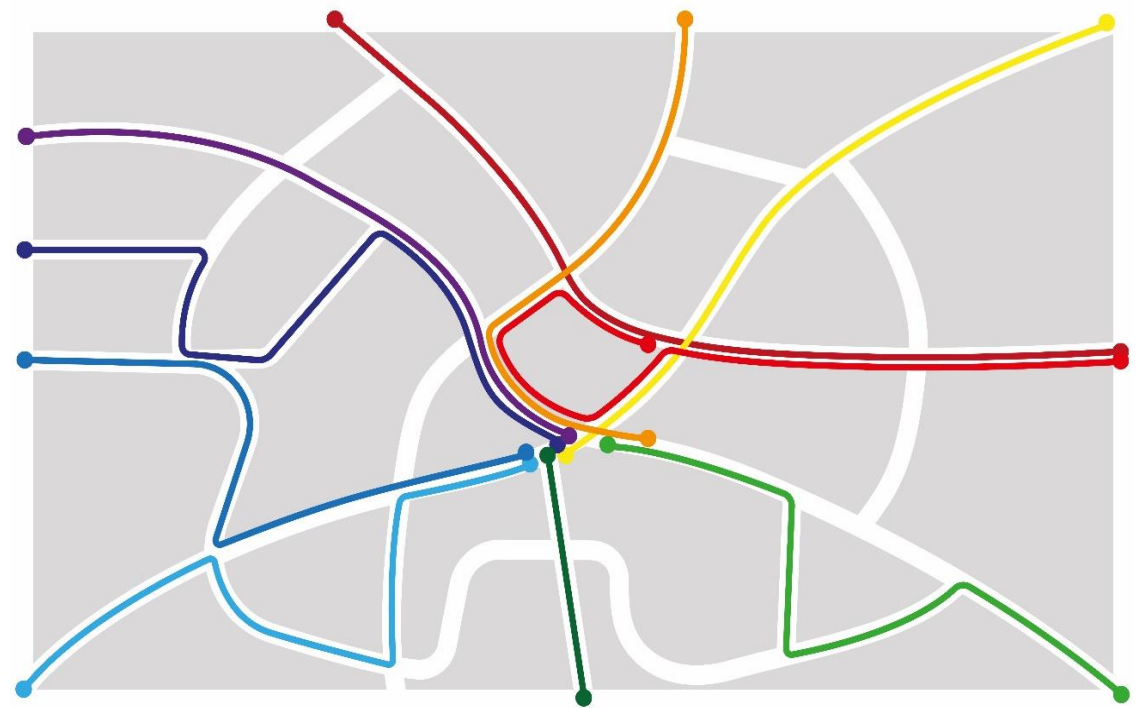
### **Benefits of option 3 – franchising**

8.2.56 The main beneficiaries of franchising would be the users, as franchising would potentially result in a better planned and stable overall bus network with services running in a joined-up way with full integration of all bus services and other modes of transport, such as rail. As well as an improvement in the quality of services, it would be expected that the franchising standards will require a more consistent level of vehicle quality. Additionally, as part of a franchise (even if there are a number of bus operators in the franchise) ticketing arrangements will be simplified. With, for example, appropriate patronage-based bonuses in the contract, the local authority and franchise operator would also be able to work together towards increasing patronage.

8.2.57 One of the key outcomes of franchising would be the creation of a unified bus network in an area. Figure 1 provides an example of a unified network in an urban area, where instead of a number of commercial radial bus routes with uneven headways provided by more than one operator, the network is rationalised to five cross-city services with consistent headways plus an orbital route connecting with the cross-city services. This rationalised network would offer passengers a wider range of destinations, through an improved ability to transfer easily between services (with integrated ticketing also supporting this arrangement).

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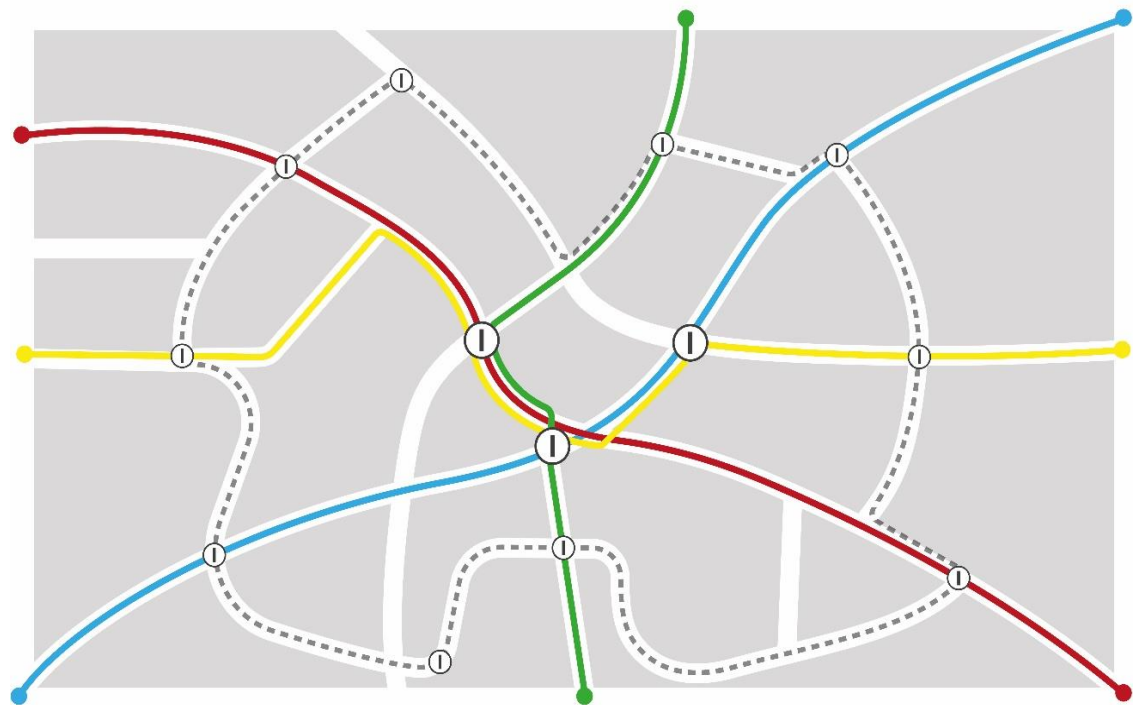
Figure 1: Rationalising bus services to create a unified network



10 Bus Lines



*Existing network 10 bus lines with limited range of journeys*



4 Cross City Bus Lines



Orbital Bus



Interchange



*With unified network in place: 5 bus lines, interchange points and greater range of origin /destinations by bus*

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- 8.2.58 The impacts of a unified network have been considered using the approach outlined in Appendix 2. Benefits to users are expected to be accrued due to:
- improved and more reasonable journey times for journeys involving transfer due to better integration and coordination with other bus routes and public transport modes;
  - the ability of passengers to travel on one or more services in the local franchised network using a single integrated ticketing system without needing to plan their journeys or buy a specific multi-operator ticket in advance; and
  - better and easier-to-understand information to passengers as a result of having a simplified and planned network of services.
- 8.2.59 On the basis of improvements to aspects of the bus service noted above patronage uplifts of up to 7% have been estimated for major urban areas, with lower corresponding uplifts of around 1%-3% for town urban and rural areas (which translates to financial benefits as set out in Table 4). In practice, franchising proposals could also include investment in, for example, infrastructure and vehicles, and hence a higher level of patronage increase would be targeted.
- 8.2.60 Other wider benefits would also accrue if more people travelled by bus:
- health and wellbeing benefits from additional passengers walking to catch a bus;
  - net carbon emissions should be lower due to some travellers switching from car travel; and
  - improved air quality on main road corridors should also accrue if some car travellers switched to bus travel.
- 8.2.61 Drawing on international experience, depending on the structure of the franchise contracts, incentivised contracts (for example, net cost or bonus arrangements in gross cost contracts) can give opportunities for operators to share the benefits of higher patronage and introduce other incentives for operators to increase ridership and thus profits. It is envisaged that contractual arrangements would allow for annual reviews of performance and amending routes and frequencies within defined parameters, which would provide franchise operators with opportunities to develop network improvements to attract more passengers.
- 8.2.62 Currently, many local authority areas have a mix of commercial and

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socially necessary subsidised routes. In some cases, operators run services without a direct subsidy on their commercial routes, and in other cases operators receive a contracted subsidy (from local authorities) for running socially necessary routes. The assumption for the purposes of this RIA is that the bus kilometres in a present network would be maintained, but with all services rationalised into a unified and coordinated network which should allow scope for some additional services to operate (for example, by re-routing competing services on a core corridor to create a high frequency orbital service which would act as a feeder to trunk services, or by running rural feeders into inter-urban trunk services) thereby widening the scope of potential bus journeys.

- 8.2.63 In a like-for-like network scenario, it is assumed that operational costs for operators will be unchanged from the present if a franchise is put in place. In practice, the franchising authority may seek to vary the network shape and operation – for example every year a network review could take place with opportunities for stakeholders to comment. As this is not a requirement, costs for such reviews have not been estimated as part of this exercise.
- 8.2.64 There would be benefits to bus franchise operators from the certainty and stability that franchising provides which will enable an operator to better develop training and career progression for their employees could be improved– for example, drivers would be able to transfer between franchisees in the event of retendering of the franchise.
- 8.2.65 Franchising would provide local authorities with greater control over the bus network and services to be provided, and would provide cross-subsidisation opportunities. For example, bus routes could be planned and coordinated to provide improved convenience for journeys to school or healthcare facilities which provides economies of scale and may reduce the need for bespoke services.
- 8.2.66 Local authorities would also be able to ensure that the bus network is integrated with the local and regional rail networks in Wales, for example, by running feeder services to match with rail timetables, thereby reducing the need to run bus services in parallel with rail services which occurs in some locations in Wales.
- 8.2.67 Local authority control over bus service provision would also allow for better alignment with delivering on key policy priorities – such as reducing car travel and associated carbon and particle emissions, improving



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accessibility to key services, maximising social inclusion and improving access to employment.

8.2.68 Table 4 summarises the estimated financial benefits for franchising.

Table 5: Estimated benefits for franchising (£'000) for a single local authority area

Organisation type	Benefits item	Welsh Government	Local authorities	Operators	Users*	Total
Major urban network	Financial impacts p.a.	-	735	2,205	-	<b>2,940</b>
	Economic impacts p.a.	-	-	-	7,110	<b>7,110</b>
Town urban network	Financial impacts p.a.	-	105	315	-	<b>420</b>
	Economic impacts p.a.	-	-	-	1,655	<b>1,655</b>
Rural network	Financial impacts p.a.	-	45	135	-	<b>180</b>
	Economic impacts p.a.	-	-	-	475	<b>475</b>

Note: All costs and benefits are illustrative and will vary in practice based on local conditions and the extent to which the local authority has rural, urban town and major urban areas within it. A detailed business case will be developed prior to implementation by a local authority. \* User benefits are based on monetised Generalised Journey Time (GJT) savings and are non-cash.

### **Summary of costs and benefits of option 3 – franchising**

8.2.69 Modelling of the costs and benefits of franchising indicates that overall economic benefits would outweigh costs. The main beneficiaries will be bus users, and also the winning franchisees whose incomes should outweigh the costs of bidding and refurbishing buses.

8.2.70 As outlined previously, potential bus infrastructure investment costs have not been included in the quantified impacts as such investment is not a requirement of franchising. However, in some circumstances it may be appropriate or desirable for a local authority to invest in bus infrastructure

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as part of a franchising approach. The following example provides an indication of what a local authority could propose:

*For a local authority with a busy market town with surrounding villages, it is possible that in addition to pro-bus policy measures a franchise may need phased upgrading of 25% of bus stops at a cost of c.£500k, and c.£2.4m on bus priority measures involving traffic management measures aimed to speed up bus journey times up at pinch-points. This is similar to the measures for a WPS, although the location of bus stops and bus priority measures is likely to be different as a franchise develops new routes. Having control of bus routes, the local authority may also be able to divert buses onto particular routes to avoid extra congestion on some roads, and then introduce bus priority measures on other roads.*

*As well as these costs, if routes are significantly changed with more interchanges there may be a need to invest in some larger covered interchange hubs. This may cost an additional £700k, along with improved travel information systems at an extra £75k. It is envisaged that these bus hubs would be a number of covered shelters on existing highway land, as opposed off-road sites requiring highway alignment works.*

*Investments such as these would bring additional benefits to those modelled, through travel time savings and the perceived 'value' to users from being able to wait at higher quality bus stops, change buses more effortlessly and be better informed on exact bus positions with easy-to-read display boards.*

### Costs of option 4 – local authority run bus services

- 8.2.71 Should a local authority decide to bring forward proposals for running their own bus services, whether directly in-house or via a company controlled by the local authority, the decision to proceed would be informed by detailed assessments of the implications, which would include a full financial assessment and cost benefit analysis. In particular, authorities would need to justify why they wish to run their own bus services. For example, in response to a current situation where competition is so poor that tenders for section 63 services are not competitively priced or that no tenders are received, and a small local authority fleet would enable gaps in services to be addressed.
- 8.2.72 There would be set up costs for the Welsh Government in preparing guidance on the legislative provisions relating to local authority run bus

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services. It is estimated that the revenue cost of producing guidance would be £300k. This cost will be incurred in the 2021-2022 and 2022-2023 financial years

- 8.2.73 There would be set up costs for local authorities as they would need to develop a business case followed by acquiring depots and vehicles. Additional costs are estimated as between £100k and £200k for the business case and organisational processes.
- 8.2.74 The local authority would need to purchase and operate a bus depot. This cost would vary greatly depending on the size of the operation to be set up. It is assumed that on average a local authority may run 15 buses (for example, in rural areas that may receive poor tender prices). A new depot cost of £1.2m is assumed, based on pro-rata of costs outlined in the Transport (Scotland) Bill financial memorandum<sup>25</sup> which refers to a report by the managing director of Nottingham City Transport Ltd, which looked at the estimated cost of setting up a hypothetical municipal bus operation. The memorandum explains that:

*“The Cost of Municipal Bus Operation study assumes the bus company is situated in a town with a population of 140,000-150,000 (similar in size to Dundee) and that the company is required to purchase and build all infrastructure (including depots) and all vehicles. It assumes a fleet size of 112 vehicles, mainly double-deckers, running a typical urban 24 hour, seven days a week all-year service with a 10-minute peak time service frequency. The hypothetical costs are broken down as shown in the table below. These costs are based on a relatively sizeable operation, likely to go well beyond that required to meet an unmet transport requirement. Nevertheless, they do give indicative unit costs which could be scaled down depending on the extent of the operations.”*

<b>Costs - Capital Set-Up (one-off)</b>	<b>Amount (£million)</b>
<i>Land</i>	1.2
<i>Buildings (e.g. depot)</i>	4
<i>Related infrastructure &amp; equipment</i>	1
<i>Vehicles</i>	28.5
<i>System support</i>	3
<b>Total capital cost</b>	<b>37.7</b>
<b>Costs - Operational (annually recurring)</b>	17.5

<sup>25</sup> Accessed at:  
[https://www.parliament.scot/S5\\_Bills/Transport%20\(Scotland\)%20Bill/SPBill33FMS052018.pdf](https://www.parliament.scot/S5_Bills/Transport%20(Scotland)%20Bill/SPBill33FMS052018.pdf)

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- 8.2.75 Based on feedback received from stakeholders, a resource for training/recruitment will be required to successfully implement a local authority bus fleet. A £50k one-off cost per local authority for training and recruitment is therefore assumed.
- 8.2.76 If a local authority decided its best option for providing bus services in the area was to run services directly, it could purchase or lease buses and employ drivers to operate the routes. An annual operating cost of £133k per bus has been assumed (including drivers, fuel, lease costs and management / depot staff and overheads) – which represents a lower range cost for supported and low frequency services.
- 8.2.77 It has been assumed for modelling purposes that the existing bus operator sector will incur an overall slight loss of revenue as a result of loss of business if a local authority decides to run operations itself. If an operator's operating costs are £125k without profit added, and if the existing operator was making a 6% operating margin (based on current average profit margins in Wales), and a local authority was to introduce its own fleet of 15 vehicles, this would translate to lost profits of £113k<sup>26</sup>.
- 8.2.78 Currently, because availability of funding is often only known for the current year, local authorities normally only enter into one or two-year contracts to run subsidised bus services. The frequent retendering leads to uncertainty amongst bus operators making it difficult, in some cases, to recruit and retain staff.
- 8.2.79 Local authorities may be able to offer bus drivers more attractive longer-term and more stable roles, thereby finding it easier to attract and retain staff. It has been assumed for purposes of modelling that local authority bus staff salaries and overheads would be marginally more than for commercial operators (the £133k above), but that this would be offset by the removal of the need to maintain a profit margin – such that overall cost for operating local authority buses would be similar to that for commercial bus operators making a 6% return.
- 8.2.80 Table 5 summarises the estimated costs of local authority running bus services directly (and more details are shown in Appendix 1), with the set-

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<sup>26</sup> If operating costs are c.£1.9m per 15 buses per local authority, a 6% operating margin would equate to £113k. The 6% margin is reported in Department for Transport statistics for Wales accessed in [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/774590/bus0401.ods](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/774590/bus0401.ods) and [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/774593/bus0406.ods](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/774593/bus0406.ods)

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up costs for local authorities including the business case work, costs of depots, and with operational costs including the cost of 15 bus vehicles.

Table 6: Estimated costs for local authority run bus services (£'000) for a single local authority

Organisation type	Cost Item	Welsh Government	Local authorities	Operators *	Users	Total
Welsh Government*	Producing guidance	300	-	-	-	<b>300</b>
Major urban network	Set-up costs	-	1,450	-	-	<b>1,450</b>
	Recurring costs p.a.	-	1,990	115	-	<b>2,105</b>
Town urban network	Set-up costs	-	1,400	-	-	<b>1,400</b>
	Recurring costs p.a.	-	1,990	115	-	<b>2,105</b>
Rural network	Set-up costs	-	1,350	-	-	<b>1,350</b>
	Recurring costs p.a.	-	1,990	115	-	<b>2,105</b>

Note: All costs and benefits are illustrative and will vary in practice based on local conditions. A detailed business case will be developed prior to implementation by a local authority. \* Assumption is that commercial operators will lose their current profit. \*\* Welsh Government costs are for providing guidance for multiple authorities

### **Benefits of option 4 – local authority run bus services**

- 8.2.81 Based on the assumptions made, the total income to the local authority from ticket receipts and concession receipts should be the same as for the existing supported tendered services.
- 8.2.82 Given that one of the circumstances in which local authorities are likely to consider running services directly is if tender prices are not competitive or no bids are received for running a service, there is potential for a net financial benefit to the local authority, for example, by operating services for a lesser amount of money than the tender prices of private operators. However, for the purposes of the 15-year appraisal period in this report, an assumption is made that there is no net financial saving on operational costs as the initial local authority bus operation would be based on running the previously tendered services, but with a sounder long-term financial basis with local authorities directly operating the small fleet. For

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the same reason, any benefit to users is assumed to be negligible and unknown at this time.

- 8.2.83 Table 7 summarises the estimated financial impacts for local authority operated buses – with an overall assumption that overall revenue will broadly match costs (including revenue from Bus Service Support Grant and concessionary fare reimbursement). If revenue was not expected to match costs, it would clearly be unlikely that a decision would be made to proceed.

Table 7: Estimated benefits for local authority run bus services (for one local authority)

Organisation type	Benefits item	Welsh Government	Local authorities	Operators	Users	Total
Major urban network	Financial impacts p.a.	-	1,990	-	-	<b>1,990</b>
	Economic impacts p.a.	-	-	-	-	-
Town urban network	Financial impacts p.a.	-	1,990	-	-	<b>1,990</b>
	Economic impacts p.a.	-	-	-	-	-
Rural network	Financial impacts p.a.	-	1,990	-	-	<b>1,990</b>
	Economic impacts p.a.	-	-	-	-	-

Note: All costs and benefits are illustrative and will vary in practice based on local conditions. A detailed business case will be developed prior to implementation by a local authority.

### **Summary of costs and benefits of option 4 – local authority run bus services**

- 8.2.84 Modelling of the costs and benefits impact of local authority run bus services, assuming no change to passenger numbers, shows that the cost of a new bus depot is the dominant cost item which will not necessarily be offset by revenue gains. However, this does not mean that there will not be instances where local authority run bus services could present a robust business case – such as where the local authority already has a depot, where low levels of competition for section 63 contracts has led to rising

tender costs, or where an efficiency of scale can be achieved in combination with also operating some school services.

**Costs and benefits of option 5 – combination of options 2 – 4**

- 8.2.85 Under the preferred option 5, local authorities would have the powers to implement partnerships without the need for investment in infrastructure improvements through WPSs, or could opt to franchise their bus network (or parts of the network), or could choose to run services directly.
- 8.2.86 Which tools would be needed, or which tools a local authority may choose to use, would depend on the different challenges, for example, whether the services are in a rural or urban area, and whether the bus network was addressing catchment and patronage needs. Some local authorities may have the capability and resources to consider using franchising as an option for addressing local transport needs, while other local authorities may prefer to seek to bring about improvements in services through the improved partnership working arrangements. The intention is not for the Welsh Government to set out how local authorities should secure bus service delivery in their area, but to provide a range of tools that offers them flexibility to influence services in the best way that suits their local needs, their capabilities and their resources.
- 8.2.87 Having flexibility in how to influence or exert better control over bus services would contribute towards local authorities' priorities of providing and integrating public transport services, increasing patronage, reducing car use, reducing carbon emissions and improving air quality.
- 8.2.88 Forecasts for what may happen to bus patronage for legislative options are as follows, but will clearly need to be estimated on a case-by-case basis depending on the specific dynamics of the bus market in the area under consideration:
- WPSs – Patronage increases would be relatively limited at less than 1% for a WPS – but based on this assessment only, a limited range of measures such as some coordination of services, and benefits would be likely to offset costs. To achieve greater patronage and hence revenue increases operators would need to be convinced to agree to set up a WPS by some local authority commitment to aspects such as enforcement of parking, investment in infrastructure, or other policy-based solutions to boost bus patronage.
  - Franchising – Patronage increases are estimated at up to 7% for a major urban area (and 1-2% for a town urban area and rural area)

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and associated user and revenue benefits are estimated to outweigh the costs – based only on a limited range of measures including rationalised networks to provide greater opportunities for bus travel, better coordination of services, integrated ticketing, better information and network branding. Each network under consideration would need detailed business case investigations to confirm that franchising is a financially and economically rational way forward – and it would be expected that other investment would be considered in the overall approach (e.g. on-street bus infrastructure) to achieve greater patronage increases.

- Local authority run bus services – Patronage increase has not been assumed for this option, and higher overall local authority unit costs for local authority staffing may offset the typical profits operators make. There may however be particular instances where the dynamics of the local market mean that local authority run bus services could be viable, notably where local authorities are not receiving viable section 63 contract bids, or where low levels of competition for section 63 contracts has led to rising tender prices.

8.2.89 For modelling purposes, it has been assumed that 25% of local authorities adopt WPSs, 25% create franchises, 25% provide 15 local authority buses and the remaining 25% do not make any changes to current systems.

8.2.90 A summary of the costs and benefits of major urban, town urban and rural networks factored on a pro-rata basis for the whole of Wales are shown in Table 7 and Table 8 respectively.



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Table 8: Summary of Discounted Costs for Preferred Option  
Implementation 2021/22 – 2035/36 (£m)

Organisation type	Cost Item	Welsh Government	Local authorities	Operators	Users	Total
WPS (25% local authorities)	Producing guidance	£0.7m	£1.0m	£1.0m	-	£2.6m
Franchising (25% local authorities)	Set-up costs and recurring costs	£12.1m	£13.4m	£12.7m	-	£38.3m
Local authority run bus service (25% local authorities)	Set-up costs and recurring costs	£0.27m	£86.1m	£4.5m	-	£90.9m
<b>Total costs</b>		<b>£13.1m</b>	<b>£100.5m</b>	<b>£18.2m</b>	<b>-</b>	<b>£131.8m</b>

Note: All costs and benefits are illustrative and will vary in practice based on local conditions. A detailed business case will be developed prior to implementation by a local authority.

Table 9: Summary of Discounted Benefits for Preferred Option  
Implementation 2021/22 - 2035/36 (£m)

Organisation type	Cost Item	Welsh Government	Local authorities	Operators	Users*	Total
WPS (25% local authorities)	Economic and financial benefits	-	-	£1.5m	£12.9m	£14.4m
Franchising (25% local authorities)	Economic and financial benefits	-	£2.1m	£11.0m	£75.0m	£88.1m
Local authority run bus services (25% local authorities)	Economic and financial benefits	-	£80.1m	-	-	£80.1m
<b>Total benefits</b>		<b>-</b>	<b>£82.3m</b>	<b>£12.5m</b>	<b>£87.9m</b>	<b>£182.7m</b>

Note: All costs and benefits are illustrative and will vary in practice based on local conditions. A detailed business case will be developed prior to implementation by a local authority. \* User benefits are based on monetised Generalised Journey Time (GJT) savings and are non-cash

8.2.91 Table 9 shows the detailed breakdown of the discounted costs and benefits for each of the three options, based on an assumed

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implementation of 25% of local authorities adopting WPSs, 25% creating franchises, 25% providing 15 local authority buses, and the remaining 25% not making any changes to current systems. Appendix 3 also shows a detailed breakdown of the cost and benefits for the WPS, franchising and local authority run bus services options, showing the following outputs:

- values for a scenario where all local authorities in Wales take forward this measure (which is not an expected outcome);
- values shown where an assumed 25% of local authorities in Wales take forward each of the three measures (WPS, franchising or local authority run bus services) which represents a notional scenario for illustrative purposes;
- the values for the financial (i.e. cash) only outcomes, and hence exclude wider economic benefits to bus users; and
- the values for the financial (i.e. cash) impacts on the bus operator sector, which exclude costs and benefits to Welsh Government and local authorities, and wider economic benefits to bus users.

8.2.92 Based on the information shown in Table 9 (and Appendix 3), the conclusions in respect of the estimated costs and benefits are summarised as follows:

- the overall NPV is positive (£50.8m), with economic benefits to passengers and increased passenger revenue (£182.6m) outweighing costs (£131.9m). Passenger numbers are expected to increase as a result of local authorities implementing the measures. The conservative approach adopted in this RIA of only including benefits of measures directly associated with the legislation options suggests relatively modest passenger increases (of up to 7% for franchised networks and less for WPS measures). It is emphasised however that in practice it is possible that implementation of the legislative measures by local authorities would also include a range of supporting investment in transport infrastructure, or policy measures (such as parking availability or charges) – in which case higher patronage increase targets would be expected (and detailed business case investigations to justify capital investment).
- Overall costs (discounted to 2020) over 15 years are estimated at £131.9m, with around £90.9m of this due to the overall set up and operating costs of local authority buses, with the remaining £40.9m

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representing the combined set-up and recurring cost of WPS and franchise implementation.

- The additional cost to local authorities for setting up and operating buses is estimated as around £86.1m – although this is largely offset by passenger fare revenue – which is assumed to at least maintain a level similar to the present day. The local authority bus services option has an overall slightly negative NPV – and hence this measure would only likely be considered if a value-for-money investigation showed that there would be clear financial (and passenger) benefits; for example if the local bus market was clearly not delivering value-for-money tender prices for supported services, or if tender submissions under section 63 were inadequate.
- Discounted costs to the bus operator sector are estimated at around £18.2m over a 15 year period, due to the costs of setting up WPSs, bidding for franchising, and refurbishment of buses for franchising.
- The cost to the bus operator sector for just WPSs and franchising (at £13.7m) are approximately equal to financial benefits which accrue (at around £12.5m) due to increased patronage and revenue. The overall cost to the operator sector includes costs incurred by unsuccessful bidders as well as those who win and then operate franchises. It should be noted that the financial position of operators who successfully win franchises would be expected to be improved, with revenue larger than their overall bidding and set-up costs – but clearly the unsuccessful bidders will have a financial shortfall compared to the Business-as-Usual scenario (although unsuccessful franchise bidders will be able to bid for other tenders).
- Costs to the Welsh Government and local authorities for WPSs and franchising is estimated at around £27.2m (which includes around £5.4m additional cost to Welsh Government for reimbursement of concessionary fares due to patronage increases). This is the total WPSs and franchising set up and recurrent costs over the 15 year period – and is taken directly from Table 9 in the RIA. This figure is discounted to 2019/20. The WPS and franchising costs can be compared to the present Welsh Government support for the public transport bus sector which is around £113m per annum (see Chapter 3) – and hence over a 15 year period the additional costs do not represent a significant step-change. It is emphasised however that significant investment in, for example, infrastructure and vehicles, will

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be needed to create the conditions for a step-change increase in bus passengers – but that these costs are not included in this RIA.

- 8.2.93 The combination of introducing legislation on improved partnership working arrangements and franchising, and local authority run bus services is the Welsh Government's preferred option. To introduce legislation would ensure that local authorities had access to a comprehensive suite of tools and options to consider when addressing the challenges with bus service delivery in their area.
- 8.2.94 Each local authority faces different challenges in securing bus services in their area. Some local authorities may consider that franchising would be the most appropriate solution for their area, while other local authorities may prefer to bring about improvements through partnership working and others may decide that the only way of achieving the desired outcome would be to run services directly themselves.
- 8.2.95 By bringing forward all of the provisions outlined in options 2-4, the Welsh Government would be providing local authorities with the tools to help them secure the bus service provision that is needed in their areas. It would also provide local authorities with a greater influence to try and reverse the decline in bus patronage, along with the numerous other benefits (for example, access to employment, health benefits, greater social interaction, reduced congestion and reduced carbon emissions). In this respect, the legislative proposals can be considered as enabling measures, which provide an enhanced ability for local authorities to lock in benefits of wider investments in measures such as infrastructure, low carbon buses, or policy measures.
- 8.2.96 Analysis has shown that the benefits of introducing the legislative changes to allow for improved partnership working, franchising and local authority run bus services are:
- economic user benefits to passengers; and
  - increased patronage and associated revenue increases.
- 8.2.97 Whilst the public financial outlook remains constrained, for modelling purposes, it has been assumed that Welsh Government continues to provide the current amount of financial support in respect of direct support for operators and subsidised services, and reimbursement of concession fares. For the preferred option, there are a range of additional set up and

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annual recurring costs to Welsh Government, including costs for reimbursement of concession fares if patronage increases.

8.2.98 Thus an overall conclusion is made that including all of the legislative proposals in the Bill would allow local authorities to use the approach they consider to be most suitable to meet their objectives for services in their area, and would in particular provide overall enhanced benefits to passengers compared to business-as-usual.

8.2.99

Table 10: Summary of Costs and Benefits for Preferred Option Implementation (£m)

Cost or Benefit	Measure	Costs and benefit elements	Organisation / User	25% adoption of measure <sup>1</sup>	Financial Only <sup>1,2</sup>	Operators sector only <sup>1,3</sup>
<b>Costs</b>	<b>WPS</b>	Set-up cost	Welsh Govt	£90K	£90K	
			Local auth's	£348K	£348K	
			Operators	£289K	£289K	£289K
			Users	-	-	-
		Recurring costs	Welsh Govt	£591K	£591K	
			Local auth's	£661K	£661K	
			Operators	£661K	£661K	£661K
			Users			
		<b>Total Costs</b>		<b>£2,640K</b>	<b>£2,640K</b>	<b>£950K</b>
	<b>Franchising</b>	Set-up costs (first round)	Welsh Govt	£6,765K	£6,765K	
			Local auth's	£7,664K	£7,664K	
			Operators	£1,965K	£1,965K	£1,965K
			Operator buses	£6,293K	£6,293K	£6,293K
			Users	-	-	-
		Set-up costs (second round)	Local auth's	£1,545K	£1,545K	
			Operators	£773K	£773K	£773K
			Operator buses	£3,710K	£3,710K	£3,710K
			Users	-	-	-
		Recurring costs	Welsh Govt	£5,356K	£5,356K	
			Local auth's	£4,210K	£4,210K	
			Operators	-	-	-
			Users	-	-	-
		<b>Total Costs</b>		<b>£38,280K</b>	<b>£38,280K</b>	<b>£12,740K</b>
	<b>Local authority run bus services</b>	Set-up costs	Welsh Govt	£270K	£270K	
			Local auth's	£5,984K	£5,984K	
			Operators	-	-	-
			Users	-	-	-

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		Recurring costs	Local auth's	£80,144K	£80,144 K	-	
			Operators	£4,536K	£4,536K	£4,536K	
			Users	-	-	-	
		Total Costs			£90,934K	£90,934 K	£4,536K
Benefit s	WPS	Benefits (15 Year)	Local auth's	-	-	-	
			Operators	£1,455K	£1,455K	£1,455K	
			Users	£12,928K	-	-	
		Total Benefits			£14,383K	£1,455K	£1,455K
	Franchisi ng	Benefits (15 Year)	Local auth's	£2,104K	£2,104K	-	
			Operators	£11,015K	£11,015 K	£11,015 K	
			Users	£74,999K	-	-	
		Total Benefits			£88,118K	£13,119 K	£11,015 K
	Local authority run bus services	Benefits (15 Year)	Local auth's	£80,144K	£80,144 K	-	
			Operators	-	-	-	
			Users	-	-	-	
		Total Benefits			£80,144K	£80,144 K	£00
	Total Costs				£131.8M	£131.8 M	£18.2M
	Total Benefits				£182.6M	£94.7M	£12.4M
	Net present value 2021/22 – 2035/36 (discounted 201920 Prices)				£50.8M	- £37.1M <sup>4</sup>	-£5.8M <sup>4</sup>

**Notes for Table 9:** Values shown are approximate and are intended to provide only indicative forecasts of costs and benefits (and are discounted to 2019-20 over a 2021/22 - 2035/36 15-year appraisal period). Other notes are:

1. Values shown are based on an assumption that 25% of local authorities in Wales take forward each of the three measures (WPS, franchising or local authority run bus services) and hence represents a notional scenario for illustrative purposes.
2. The values shown are financial (i.e. cash) only, and exclude wider economic benefits to bus users.
3. The values shown are financial (i.e. cash) only, and show the impact on the bus operator sector only, and exclude costs and benefits to Welsh Government and local authorities, and wider economic benefits to bus users.
4. The NPV values shown are for illustrative purposes only and are intended to show the net present financial value (and hence do not include wider economic benefits)

**8.3 Section 2 – Information sharing provision**

**Introduction**

8.3.1 The Bill would see the introduction of provisions that would result in public access to more consistent and reliable data on bus services (open data); and a requirement for the provision of service information when registered services are cancelled or varied (service information).

8.3.2 The costs and benefits have been evaluated over 15 years from 2021/22 to 2035/36. It is assumed the earliest the primary legislation would receive Royal Assent would be in April 2021, subject to the will of the Assembly. Following Royal Assent, the current working assumption is that the subordinate legislation to implement the Bill would not come into force before April 2022, and the open data and service information rules would be applied from April 2023, giving operators and local authorities time to plan for the changes.

8.3.3 The basis and build-up of costs is shown in Appendix 1.

**8.3.4 Costs and benefits of option 1 – business as usual**

8.3.5 There would be no additional costs associated with this option. Operators and local authorities would continue to provide information on bus services as they do now.

8.3.6 This option is benefit neutral as the status quo would continue.

8.3.7 Without change it can be assumed that some operators would take steps to make better information available where it is seen there would be a commercial benefit, which would bring benefits to bus users. However, other operators may not, and the information provision would continue to be inconsistent and varying in quality across Wales.

8.3.8 Local authorities would continue to be unable to access information about withdrawn services that would assist them in decisions about whether to contract to provide a subsidised replacement service and help ensure

competitive tenders are received should they decide to support a replacement service.

**Costs of option 2 – introduce legislation on information sharing provision**

- 8.3.9 There would be set up costs for the Welsh Government in producing guidance for local authorities and other stakeholders on the legislative provisions relating to open data and the provision of service information. It is estimated that the cost of producing guidance would be between £20k and £30k. This cost will be incurred in the 2021-2022 and 2022-2023 financial years. There would also potentially be cost or resource implications for stakeholders as part of the engagement and consultation, such as time spent familiarising with the guidance and attending engagement events, which have not been costed and therefore unknown.
- 8.3.10 There may also be additional costs to the Welsh Government as a result of opportunities created by a more comprehensive data set. At this stage it is not possible to ascertain the scale and scope and they have therefore not been costed. These costs are therefore unknown.
- 8.3.11 Once data is provided under the service information provisions it is envisaged that there would be minimal impact on local authorities as they would be better informed when making arrangements to secure replacement services, to include preparing tender specifications and subsequent evaluation where the replacement services are to be provided on a subsidised basis. Any cost implications on local authorities are likely to be minimal and are not known, as they would be limited to withdrawn services for which a local authority is considering subsidising a replacement service.
- 8.3.12 Feedback from stakeholder engagement has identified that upgrades to software and IT systems may be required for some operators to meet the open data requirements. A cost estimate of £500k has been added to account for this operator set-up cost. These costs would be incurred in the 2021/22 and 2022/23 financial years.
- 8.3.13 There would also be some additional costs to operators in extracting and collating the data required by the Bill under the provisions relating to both open data and the provision of service information. Costs are estimated to be around £500k per year for all local authorities and operators, based on



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an estimate of additional resource required to undertake the work. Table 10 summarises the estimated costs of the information provisions.

- 8.3.14 Recurring costs to local authorities and operators are not likely to be incurred until at least 2023/24 once the Welsh Government has produced the required regulations and guidance.

Table 11: Estimated Costs of Improved Data Provision (£)

Cost Item	Welsh Government	Local authorities	Operators	Users	Total
Set up costs	£20k-£30k	-	£500k	-	£520k - £530k
Recurring costs p.a.	-	£500k	£500k	-	£1m
Discounted total 2021/22–2035/36	£0.02m	£4.49m	£4.92m	-	£9.43m

### Benefits of option 2 – introduce legislation on information sharing

- 8.3.15 The main beneficiaries from the provision of open data set would be the bus users as they would have access to consistent, high quality and up-to-date information. The perceptual value of this is evaluated by Department for Transport economists to be worth between 2-3 pence per bus journey<sup>27</sup>. As there are just below 100 million bus journeys in Wales a year, this would equate to a benefit of between £2m and £3m a year.
- 8.3.16 The improvements in the accessibility of reliable information about bus services would make bus travel a more attractive option and increase passenger confidence in the services, which would likely lead to an increase in patronage.
- 8.3.17 There would also be benefits to operators through increased patronage and use of services. The Impact Assessments for the English Bus Services Act 2017 estimated the benefits to operators in England to be between £800k and £5m per year. In 2017/18 4.4 billion bus journeys were undertaken in England. The 99.9m bus journeys undertaken in Wales in 2017/18 equates to 2.3 % of English bus trips<sup>28</sup>. Therefore, if the

<sup>27</sup> Department for Transport. *Impact Assessments Bus Services Bill*. June 2016. p.73.

<sup>28</sup> English and Welsh patronage statistics sourced from [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/774572/bus0103.ods](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/774572/bus0103.ods)

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impact in Wales is equivalent to the estimated impact in England, this may equate to benefits to operators in Wales between £20k and £115k.

8.3.18 The availability of data on withdrawn services should result in lower tender bids from operators, where a local authority decides to tender to replace the service. The provision of information will enable the procuring local authority to make a more informed decision when awarding a contract. This may potentially reduce the risk of inflated tender prices. However, this will also depend on the number of bidders.

8.3.19 Total spend on subsidised services in Wales is £23m per year (comprising £8m Bus Services Support Grant and £15m from non-specific grant funded expenditure (funded through Revenue Support Grant, council tax and other local raised income)). Bus Services Support Grant is a fixed amount therefore there would be no cash savings. However, any efficiencies would facilitate support for additional bus services. In respect of RSG, this is un-hypothecated and therefore any efficiencies could be utilised to support additional bus services or other local authority priorities. Based on an estimate of an average saving of between 1-3% across Wales, the benefits would be between £150k and £450k per annum.

8.3.20 Table 11 summarises the estimated financial benefits of the information provisions.

Table 12: Estimated financial benefits of information provision (£)

<b>Benefits</b>	<b>Welsh Government</b>	<b>Local authorities</b>	<b>Operators</b>	<b>Users</b>	<b>Total</b>
<b>Financial impacts p.a.</b>	-	£150k - £450k	£20k - £115k	-	£170k - £565k
<b>Quantified wider economic impacts p.a.</b>	-	-	-	£2m – £3m	£2m – £3m
<b>Discounted total 2021/22 – 2035/36</b>	-	<b>£2.69m</b>	<b>£0.61m</b>	<b>£22.45m</b>	<b>£25.75m</b>

8.3.21 The improvement in information provision to users and the subsequent increase in accessibility of services and passenger confidence in services would be likely to lead to an increase in patronage. This increase in patronage would bring associated benefits, including reduction in car use and the subsequent reduction in congestion and carbon emissions,

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thereby contributing to wider priorities for the local authority. However, these other benefits are unknown and therefore have not been monetised.

### **Summary of costs and benefits of option 2 – introduce legislation on information sharing**

- 8.3.22 Table 12 shows that there are substantial benefits, compared to costs, if the preferred option (introduction of provisions on open data and service information) is brought forward. This approach would ensure that bus users have access to consistent and reliable information about bus services in Wales.

provision Table 13: Summary of costs & benefits of legislation on information

Cost Item	Welsh Government	Local authorities	Operators	Users	Total
<b>Discounted total costs 2021/22–2035/36</b>	£0.02m	£4.49m	£4.92m	-	£9.43m
<b>Discounted total benefits 2021/22 – 2035/36</b>	-	£2.69m	£0.61m	£22.45m	£25.75m
<b>Net present value 2021/22 – 2025/36</b>					<b>£16.32m</b>

Note: All costs and benefits are illustrative based on an estimate of costs and passenger numbers.

- 8.3.23 This approach would also ensure that the Welsh Government complies with the Competition Commission's recommendation in relation to deregistered services. This would mean that local authorities have access to information about passengers, fares and revenue on deregistered and varied services, to assist them in making arrangements to secure replacement services, and in their decisions around supported services which in turn would help them achieve greater value for money when tendering for those services.

## Appendix 1: Assumptions and methodology for calculation of costs

### Introduction

This appendix outlines technical details of the approach used to assess the costs and benefits of the legislative proposals relating to WPSs, franchising and local authority run bus services.

### Cost Assumption Summary

Diagram 1 provides a summary of the set up and recurring costs. An approximate FTE cost of around £60k has been assumed – although in practice this will vary in respect of role, skills needed, organisation, and regional location.

Diagram 1: Cost assumptions

Cost Type	Summary of Cost Assumptions
<b>WPSs</b>	
Welsh Government set up costs (paragraph 8.2.21)	<p><b>£100k</b> (all of Wales)</p> <p>Cost estimate based on inclusion of the following activities:</p> <ul style="list-style-type: none"> <li>Welsh Government officers prepare guidance document; and</li> <li>Legal guidance and template partnership contract(s).</li> </ul> <p>This represents an FTE equivalent of about two Welsh Government staff. This cost will be incurred in the 2021-2022 and 2022-2023 financial years.</p>
Welsh Government recurring costs (paragraph 8.2.22)	<p>£70k major urban; £10k town urban; and zero in rural areas per annum, equivalent to £0.3m in total.</p> <p>Patronage uplifts would result in Welsh Government incurring additional revenue costs associated with supporting the concessionary travel scheme and the mytravelpass travel scheme.</p> <p>This cost would likely be incurred from 2023 onwards</p>
Local authority set up costs (paragraph 8.2.23)	<p><b>£120k major urban; £90k town urban; £60k rural</b> (per local authority)</p> <p>Assumed one-off cost for setting up a WPS in each local authority area based on the Welsh Government guidance and template partnership contract(s). Cost estimate based on local authority staff undertaking route assessments and consultation with operators on proposed WPSs, with a range from one FTE for a rural local authority to two FTEs for a major urban authority.</p> <p>This cost will likely be incurred in the 2022-2023 financial years.</p>
Operators set up costs	<p><b>£200k major urban; £150k town urban; £100k rural</b> (per local authority)</p> <p>Cost estimate based on two bus operators negotiating a WPS</p>

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Cost Type	Summary of Cost Assumptions
(paragraph 8.2.24)	with the local authority with each requiring between half to one FTE to undertake route assessments, consult with the local authority and negotiate a final deal. Half an FTE is considered more appropriate for a smaller rural network, and one FTE for a major urban network. This cost will likely be incurred in the 2022-2023 financial years.
Local authority recurring costs (paragraph 8.2.27)	<b>£25k major urban; £20k town urban; £15k rural per annum</b> (per local authority) Cost estimate based on the equivalent of up to half an FTE per year additional resource, with costs of between £15k and £25k, depending on the scale of the partnership. It is considered that this includes the following activities: <ul style="list-style-type: none"> <li>• ongoing management of WPSs;</li> <li>• updates to Traffic Regulation Orders;</li> <li>• enforcement and monitoring; and</li> <li>• meetings with operators.</li> </ul> The cost would likely be incurred from 2023 onwards
Operators recurring costs (paragraph 8.2.27)	<b>£25k major urban; £20k town urban; £15k rural per annum</b> (per local authority) Cost estimate based on the equivalent of up to half an FTE per year additional resource, with costs of between £15k and £25k, depending on the scale of the partnership. It is considered that this includes the following activities: <ul style="list-style-type: none"> <li>• ongoing management of WPSs;</li> <li>• compliance and provision of monitoring information; and</li> <li>• meetings with local authority officers.</li> </ul> The cost would likely be incurred from 2023 onwards
<b>Franchising</b>	
Welsh Government set-up costs (paragraph 8.2.38)	<b>Preparing guidance: £1m</b> (for all of Wales) Cost estimate based on inclusion of the following activities: <ul style="list-style-type: none"> <li>• Welsh Government officers prepare guidance document, estimated as about eight FTEs;</li> <li>• technical support from specialised consultants; and</li> <li>• legal advice and template contract(s).</li> </ul> <b>Support to local authorities: £5m-£8m</b> The Welsh Government may wish to provide support for early franchise proposals to help test best practice and establish franchising in Wales. With Welsh Government providing support to local authorities, there will be economies of scale rather than each local authorities duplicating the processes by working alone. These support costs could be considerably lower if most local authorities do not decide to implement franchising. This cost will be incurred in the 2021-2022 and 2022-2023 financial years, with a similar cost in later years.

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Cost Type	Summary of Cost Assumptions
Welsh Government recurring costs (paragraph 8.2.55))	<p>£570k major urban; £95k town urban; £35k rural per annum, equivalent to £2.9m in total.</p> <p>Patronage uplifts would result in Welsh Government incurring additional revenue costs associated with supporting the concessionary travel scheme and the mytravelpass travel scheme.</p> <p>This cost would likely be incurred from 2023 onwards.</p>
Local authority set-up costs (paragraph 8.2.42 & 8.2.44)	<p>Franchising costs for local authorities including a range of activities:</p> <ul style="list-style-type: none"> <li>• develop and set out governance arrangements;</li> <li>• preparation of scheme assessment (or business case);</li> <li>• financial investigations on whether the options would require capital spending, such as for the purchase of depots, buses or other infrastructure; and costs associated with the TUPE transfer of staff and their pension protection where relevant;</li> <li>• consultation with operators,</li> <li>• public consultation;</li> <li>• legal advice to address any potential legal challenge through judicial review;</li> <li>• data collection such as patronage, passenger surveys, bus speeds;</li> <li>• preparation of passenger forecast model;</li> <li>• organisational and IT aspects of a bus franchise management office;</li> <li>• Contingency plans for providing replacement services should operators stop running their services before the introduction of the franchising scheme;</li> <li>• an independent review of the economic and financial assessment;</li> <li>• preparation of franchise contract documents;</li> <li>• prepare and undertake the tender process; and</li> <li>• carry out TUPE processes.</li> </ul> <p><b>£2m-£5m major urban; £1m-£2m urban town urban; £0.5m-£1m rural (per local authority)</b></p> <p>Estimates of set up costs for local authorities have been prepared based on discussions with local government bus officers, operators and other stakeholders – and represent a range of costs from FTEs at local authority level, to a variety of external costs for aspects such as data collection, external consultants, legal advice, financial and business advice, human resource advice. There is an inherent uncertainty in respect of identifying costs at this stage – and it is likely that costs for local authorities who implement franchising in the short-term will be higher than costs for local authorities taking franchising forward on a longer timescale – due to the learning process and</p>

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Cost Type	Summary of Cost Assumptions
	<p>experience gained in the initial franchise authorities (for example contract documents).</p> <p>This cost will likely be incurred in the 2022-2023 financial years.</p> <p><b>Subsequent rounds of franchising in each local authority: £1m major urban; £500k town urban; £250k rural</b> (per authority)</p> <p>Set-up costs of subsequent rounds of franchising will be less than the first franchise business case and tender preparation as the local authority will have significant insight into the operational characteristics, costs and patronage of the bus network.</p> <p>This cost would likely be incurred from 2023 onwards</p>
<p>Operators set-up costs (paragraph 8.2.45 &amp; 8.2.49)</p>	<p><b>£1m major urban; £500k town urban; £250k rural</b> (per local authority area)</p> <p>For the purposes of this RIA, it is assumed that four operators bid for a franchise, which is assumed to cover a local authority area, giving a range of costs per operator of £75k for a rural network and £250k (c.4-5 FTE senior FTE equivalents) for a major urban network franchise.</p> <p><b>Bus refurbishment: £3.4m (225 buses) major urban; £1.4m (90 buses) town urban; £1m (65 buses) rural</b> (per local authority area)</p> <p>A one-off cost for refurbishing the franchise bus fleet at the start of the contract is assumed to be an average of £15k per bus for refurbishment.</p> <p>This cost will likely be incurred in the 2022-2023 financial years.</p> <p><b>Second and subsequent rounds of franchising</b>  <b>£500k major urban; £250k town urban; £125k rural</b> (per local authority area)</p> <p>During the first franchise round the local authority will be gathering data on bus trips and patronage, which it will be able to share with all bidders bidding on the second and subsequent rounds. Therefore the costs of bidding for bidders will be less, as there will be less research to be done by potential new entrants.</p> <p><b>Bus refurbishment subsequent rounds: £2.5m (225 buses) major urban; £1.0m (90 buses) town urban; £0.75m (65 buses) rural</b> (per local authority area)</p> <p>This cost would likely be incurred from 2023 onwards</p> <p>A one-off cost for refurbishing the franchise bus fleet at the start of the contract is assumed to be an average of £11k per bus for refurbishment (assumed as 75% of first round costs on the</p>

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Cost Type	Summary of Cost Assumptions
	<p>basis of an assumption that some or all of the bus fleet will be transferred to the new franchisee and that these buses will in many cases already have livery / branding and other elements already in place.</p>
Local authority recurring costs (paragraph 8.2.50)	<p><b>£225k major urban; £125k town urban; £50k rural</b></p> <p>This represents a range from approximately one FTE in a rural area to around 4½ extra FTEs for an average Major Urban network. This includes for the following key activities:</p> <ul style="list-style-type: none"> <li>• ongoing management of franchise contracts;</li> <li>• updates to Traffic Regulation Orders;</li> <li>• financial management and accounting;</li> <li>• enforcement and monitoring; and</li> <li>• contract meetings with operator.</li> </ul> <p>Local authorities already have existing public transport officers involved in managing section 63 subsidised contracts, liaising with commercial operators and promoting information/marketing. The costs above represent net costs in addition to these activities.</p> <p>This cost would likely be incurred from 2023 onwards</p>
Operators recurring costs (paragraph 8.2.51)	<p><b>Net zero change</b></p> <p>It is assumed that the franchised networks will have the same operating mileage as the present networks, but will be better rationalised and coordinated. Franchising could reduce operator costs as a result of:</p> <ul style="list-style-type: none"> <li>• stability of network resulting in longer term economies of scale and reduced need to carry out activities in respect of competing with other operators;</li> <li>• better rationalisation of headways to reduce bus-on-bus congestion at stops which will reduce dwell times; and</li> <li>• consistent and standardised ticketing / boarding arrangements for all buses which should reduce dwell times at stops.</li> </ul> <p>However, a franchise will also impose some cost increases as the operator will need to monitor contractual performance and carry out reporting, liaison and accounting procedures as part of the contract with the local authority.</p> <p>Overall, it is estimated that the combination of lower and higher costs will approximately net off, leaving the recurring cost implications unchanged.</p>
<b>Local authority run bus services</b>	
Welsh Government set-up costs (paragraph 8.2.72)	<p><b>£300k</b> (for all Wales)</p> <p>This represents approximately three Welsh Government FTEs preparing guidance document on setting up a local authority bus company, along with legal and specialist technical support from consultants.</p>



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Cost Type	Summary of Cost Assumptions
	<p>This cost will be incurred in the 2021-2022 and 2022-2023 financial years.</p>
Local authority set-up costs (paragraphs 8.2.73 - 8.2.75)	<p><b>Business case: £200k major urban; £150k town urban; £100k rural</b> (per local authority)</p> <p>Preparing a business case for a local authority bus company is estimated to involve between 1 – 3 local authority FTEs along with some consultancy support. The cost estimate is based on inclusion of key activities as follows:</p> <ul style="list-style-type: none"> <li>• planning and consultation on bus strategy;</li> <li>• development of business case based on local requirements;</li> <li>• configuration of local authority buses (for example, network, bus fleet etc.);</li> <li>• legal processes to comply with the legislation and Welsh government guidance;</li> <li>• procurement, management, transition and compliance.</li> </ul> <p><b>Depot costs: £1.2m</b> (per local authority)</p> <p>For the purposes of the analysis it is assumed the local authority runs 15 buses, which is comparatively small proportion of buses running in each local authority. Therefore, the depot cost of £1.2m is to set up a depot for 15 buses, including the costs for installing any fuel pumps, maintenance sheds and equipment. This cost will be an overestimate if a local authority already has suitable depot facilities or can expand facilities at an existing local authority depot that may be used for other local authority vehicles. The actual costs would be further analysed as part of the local business case work.</p> <p><b>Training/recruitment: £50k</b> (per local authority)</p> <p>Assumed cost for training and recruitment of staff that would run the bus services.</p> <p>This cost will likely be incurred in the 2022-2023 financial years.</p>
Local Authority recurring costs (paragraph 8.2.77)	<p><b>£1.99m recurring cost</b> (per local authority)</p> <p>It is assumed that the operating costs for 15 buses is £1.99m, i.e. c.£133k per bus. This may be higher than commercially operated buses as local authority staff costs are likely to be marginally higher.</p> <p>Nevertheless, some local authorities already have suitable vehicles in their fleet and also there may be opportunities to combine costs with other activities to provide cost savings (for example, drivers also driving school buses).</p> <p>This cost would likely be incurred from 2023 onwards</p>

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Cost Type	Summary of Cost Assumptions
Operators recurring costs (paragraph 8.2.77)	<p><b>£115k per annum loss of profit</b> (per local authority area)</p> <p>It is assumed that the actual bus operating cost for a commercial operator is £125k and they add on a 6% margin as explained in paragraph 8.2.77 to bring the full cost of running the a commercial bus to £133k. As a result of the 15 local authority buses it is assumed that 15 commercial buses will not run, so these operators will lose their 6% margin, i.e. c. £115k. This cost would likely be incurred from 2023 onwards</p>
<b>Information sharing</b>	
Welsh Government set-up costs (paragraph 8.3.9)	<p><b>£20k-30k</b> (for all Wales)</p> <p>Cost estimate based on preparing guidance on data requirements and consistent approach to reporting. There would also potentially be cost or resource implications for stakeholders as part of the engagement and consultation, which have not been costed.</p> <p>This cost will be incurred in the 2021-2022 and 2022-2023 financial years.</p>
Operators set-up costs (paragraph 8.3.13 <b>Error! Reference source not found.</b> )	<p><b>£500k</b> (for all Wales)</p> <p>The cost estimate for all operators is based on inclusion of relevant IT and Automatic Vehicle Location (“AVL”) equipment and/ or upgrades.</p> <p>This cost will likely be incurred in the 2022-2023 financial years.</p>
Welsh Government recurring costs (paragraph 8.3.10)	<p>There may also be additional costs to Welsh Government from opportunities created by a more comprehensive data set. At this stage it is not possible to ascertain the scale and scope and they have therefore not been costed.</p> <p>This cost would likely be incurred from 2023 onwards</p>
Local authority recurring costs (paragraph 8.3.12)	<p><b>£500k per annum</b> (for all Wales)</p> <p>The costs are estimated to be around £500k per year for all local authorities, based on an estimate of additional resource required to collate data from operators.</p> <p>This cost would likely be incurred from 2023 onwards</p>
Operators recurring costs (paragraph 8.3.12)	<p><b>£500k per annum</b> (for all Wales)</p> <p>The costs are estimated to be around £500k per year for all operators, based on an estimate of additional resource required to collate and report data to local authorities and any Welsh Government bodies.</p> <p>This cost would likely be incurred from 2023 onwards</p>

## **Appendix 2: Assumptions and methodology for calculation of Benefits**

Benefit estimates are provided in financial (cash) and economic (non-cash) terms from different sources, as explained below:

### **Financial impacts:**

- **Operator benefits:** This is the additional revenue bus operators may receive, based on extra patronage multiplied by average ticket prices; and
- **Government benefits:** This covers central government benefits and local government benefits.

### **Economic impacts:**

- **User benefits:** The approach to estimating passenger economic benefits is to monetise the range of benefits according to their Generalised Journey Time (GJT) savings. This approach summates actual time savings (if journeys are made more quickly) and ‘perceived’ time savings as a result of improvements to elements of the bus system (such as information). This approach follows the general approach set out in Department for Transport’s Transport Appraisal Guidance (WebTAG)<sup>29</sup>; The GJT benefits of each relevant change to network improvements, integrated ticketing, and vehicle quality and travel information are based on standard values of time published in TAG and other research documents. There are a range of values in transport planning research literature – typically based on ‘willingness to pay’ style surveys – which equate these improvements to an equivalent reduction in GJT or fares.
- **Non-user benefits:** Non-user benefits (e.g. time savings to other travellers if more passengers use buses, carbon reductions, accident reductions, etc.) are also calculated according to WebTAG guidance.

## **Modelling Benefits Methodology**

### **Overview**

The economic assessment model prepared for this RIA utilises demographic data, bus passenger statistics, and financial statistics for three network examples (and for the whole of Wales), available from government sources<sup>30</sup>. Outline matrices of bus travel for each case study area have been produced using NTEM<sup>31</sup> trip end data –

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<sup>29</sup> Accessed at: <https://www.gov.uk/guidance/transport-analysis-guidance-webtag>

<sup>30</sup> <https://www.gov.uk/government/collections/bus-statistics>

<sup>31</sup> The Department for Transport’s NTEM (National Trip End Model) bus use projections are presented in a software package called TEMPro (Department for Transport. TEMPro & NTEM data release notes and frequently asked questions: Additional guidance. December 2016. Accessed at: <http://assets.dft.gov.uk/s3.amazonaws.com/tempro/ntem/ntem7.1-release-notes-faqs.pdf>). The data in NTEM is not based on observations or fare data, but is derived from Census data and forecast patterns of population and employment.

and used to produce estimated benefits which will accrue both for existing travellers and additional bus users (due to the improvements made). Costs and benefits have been assessed for the three types of network (major urban, town urban, and rural/inter-urban), which have then been extrapolated on a pro-rata basis to an all-Wales level according to the annual bus mileage figures.

The RIA covers the 15 years from 2021/22 to 2035/36 to ensure the evaluation of costs and benefits is made over the medium term. The assessment modelling approach assumes a continued decline of bus demand in the business as usual option as set out in the UK Department for Transport's National Trip End Model (which is generally used for forecasting travel when assessing transport schemes). In line with HM Treasury Green Book guidance, future costs and benefits have been discounted using the Treasury's central discount rate of 3.5%<sup>32</sup>, to a 2019/20 base year.

It is noted that the costs and benefits assessed in this RIA represent a notional scenario in which non-legislative measures, such as bus stop improvements, bus stations, bus priority measures, or vehicle propulsion technology, are not included as they are not directly required or affected by the legislation. In practice, it is possible that implementation of the legislative measures by local authorities would include a range of supporting investment in transport infrastructure, or policy measures (such as parking availability or charges), in which case detailed business case investigations would be needed to justify capital costs. Indeed, these supporting measures would be likely to produce major benefits to passengers at a scale higher than the legislative proposals themselves. Hence the legislative proposals can be considered as enabling measures, which provide an enhanced ability for local authorities to lock in benefits of wider, and potentially substantial, investments in measures such as on-street or bus station infrastructure, low emission bus fleets, or policy measures such as low emission zones.

### **Benefits of Network Improvements**

Franchising and WPSs will allow a more integrated bus network to be developed. This will produce some reduction in journey time which will translate to both limited patronage uplifts and economic benefits through journey time savings. The journey time benefits relate to changes in service frequency or adjustment to bus routes to create easier journey paths (and assume easy transfer with integrated ticketing) – and do not include any savings which could be made through investment in, for example, bus priority lanes.

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<sup>32</sup>[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/685903/The\\_Green\\_Book.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/685903/The_Green_Book.pdf)

GJT matrices for the existing case study networks have been estimated to provide an outline of bus journey times in an area. In accordance with WebTAG (Unit A1.3) a multiplier of 2 has been applied to wait times to reflect the fact that people place a higher value on time spent waiting for a bus than time spent in transit. A reliability penalty of 1.5 minutes has also been added to each journey. This is the average excess waiting time for bus services in England, averaged across all local authority areas. An equivalent measure is not available for Wales and therefore the average for England has been assumed.

An outline bus user matrix has also been constructed for each case study area by combining NTEM trip end data with the pattern of bus journeys to work from 2011 census data. A Furnessing process<sup>33</sup> was used to balance trip origins and destinations, and the total number of bus trips was constrained to recorded Department for Transport bus data (99.9m trips per annum in Wales). The journey time and user matrices have been brought together to calculate an overall average GJT for each case study network.

Relatively minor improvements to journey times are projected, due to rationalisation and coordination of services. Changes to journey times in the 'do something' scenario have been calculated for a sample of journeys, across a range of categories (e.g. cross-city, radial, orbital). Differences in time for the sample of journeys have then been applied to each cell of the matrix by journey category. The GJT and demand matrices have then been combined to provide an adjusted average GJT for each option.

The GJT change is applied in the model along with an elasticity value to gain the total change in demand as a result of the journey time change. The journey time change also directly feeds the economic benefit calculation.

### **Benefits of Integrated Ticketing**

Franchising will allow an integrated ticket to be offered which will be available across all buses within an area. A value of 1.43 minutes has been used to reflect this based on TAG unit M3.2.1. This value is applied in the model as an adjustment to the generalised journey time which is combined with an elasticity value to gain the total change in demand/revenue.

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<sup>33</sup> The Furness Method is a trip distribution model:  
<http://www.transportmodeller.com/distributionoverview.html>

### **Benefits of Travel Information**

Franchising will allow improved travel information as all buses will be part of an integrated network. A value of 0.49 minutes has been used to reflect this based on TAG unit M3.2.1, by applying a percentage adjustment relative to the value for real time passenger information to the value for web-based information.

This value is applied in the model as an adjustment to the generalised journey time which is combined with an elasticity value to gain the total change in demand

### **Benefits of Vehicle quality**

Franchising is assumed to involve refurbishment of buses, upgrade to vehicle livery, and Wi-Fi facilities on all buses (for which costs of £15k per bus have been included). Benefits for this vehicle quality upgrade have been estimated based on benefit values of 6.11p for fare paying passengers and 2.20 minutes for concessionary passengers – based on stated preference research conducted in West Yorkshire<sup>34</sup>.

These values are applied in the model as an adjustment to the generalised journey time which is combined with an elasticity value to gain the total change in demand/revenue.

### **Benefits of Open data**

The better information available to consumers as a result of this scheme is estimated to be equivalent to around 2-3p per bus journey – based on research information.

### **Other Benefits**

In addition to the direct benefits of increased revenue from additional travellers and journey time savings for new and existing users there are also a number of wider benefits resulting from patronage increases. These include the following:

- Net carbon emissions should be lower due to some travellers switching from car travel;
- Improved air quality on main road corridors should also accrue with if some car travellers switched to bus travel; and
- Lower levels of congestion for people who continue to drive.

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<sup>34</sup> WY Stated Preference Research Final Report - SDG (2017)

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These user benefits have been monetised and are included in the modelling. In addition, there are likely to be health benefits as a result of people switching from private car use to public transport, however these benefits have not been monetised.

**Appendix 3: Cost and benefit estimates for adoption of WPS, franchising and local authority run bus services tools**

Table A3-1: Cost and benefit estimates for Welsh Partnership Schemes

Costs and benefit elements <sup>1</sup>		All local authority areas implement <sup>2</sup>	25% adoption of measure <sup>3</sup>	25% adoption Financial Only <sup>4</sup>	25% adoption Operators' sector only <sup>5</sup>
Set-up costs	Welsh Government	£90k	£90k	£90k	-
	Local authorities	£1,390k	£348k	£348k	-
	Operators	£1,155k	£289k	£289k	£289k
	Users	-	-	-	-
Recurring costs (over 15 Years)	Welsh Government	£2,365k	£591k	£591k	-
	Local authorities	£2,645k	£661k	£661k	-
	Operators	£2,645k	£661k	£661k	£661k
	Users	-	-	-	-
<b>Present Value of Costs</b>		<b>£10,290k</b>	<b>£2,640k</b>	<b>£2,640k</b>	<b>£950k</b>
Benefits (over 15 Years)	Local authorities	-	-	-	-
	Operators Revenue	£5,820k	£1,455k	£1,455k	£1,455k
	User Benefits	£51,710k	£12,928k		
<b>Present Value of Benefits</b>		<b>£57,530k</b>	<b>£14,383k</b>	<b>£1,455k</b>	<b>£1,455k</b>
<b>Net present value 2021/22 – 2035/36 (discounted to 2019/20 Prices)</b>		<b>£47,235k</b>	<b>£11,743k</b>	<b>-£1,185k <sup>6</sup></b>	<b>£505k <sup>6</sup></b>

Notes:

1. The values shown are approximate are intended to provide only indicative forecasts of costs and benefits (and are discounted to 2019/20 over a 15-year appraisal period)
2. Values shown are notional and are based on an assumption that all local authorities in Wales take forward this measure (which is not an expected outcome)
3. Values shown are based on an assumption that 25% of local authorities in Wales take forward each of the three measures (WPS, franchising or local authority run bus services) and hence represents a notional scenario for illustrative purposes.



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4. The values shown are financial (i.e. cash) only and exclude wider economic benefits to bus users.
5. The values shown are financial (i.e. cash) only, and show the impact on the bus operator sector only, and exclude costs and benefits to Welsh Government and local authorities, and wider economic benefits to bus users.
6. The NPV values shown are for illustrative purposes only and are intended to show the net present financial value (and hence do not include wider economic benefits)

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Table A3-2: Cost and benefit estimates for franchising

Costs and benefit elements <sup>1</sup>		All authority areas implement <sup>2</sup>	25% adoption of measure <sup>3</sup>	25% adoption Financial Only <sup>4</sup>	25% adoption Operators' 'sector only' <sup>5</sup>
Set-up costs (first round)	Welsh Government	£12,617k	£6,765k	£6,765k	-
	Local authorities	£30,655k	£7,664k	£7,664k	-
	Operators	£7,860k	£1,965k	£1,965k	£1,965k
	Operators' buses	£25,170k	£6,293k	£6,293k	£6,293k
	Users	-	-	-	-
Set-up costs (second round)	Local authorities	£6,180k	£1,545k	£1,545k	-
	Operators	£3,090k	£773k	£773k	£773k
	Operators' buses	£14,840k	£3,710k	£3,710k	£3,710k
	Users	-	-	-	-
Recurring costs (over 15 Years)	Welsh Government <sup>7</sup>	£21,425k	£5,356k	£5,356k	-
	Local authorities	£16,840k	£4,210k	£4,210k	-
	Operators	-	-	-	-
	Users	-	-	-	-
<b>Present value of costs</b>		<b>£132,825k</b>	<b>£38,280k</b>	<b>£38,280k</b>	<b>£12,740k</b>
Benefits (over 15 Years)	Local authorities	£8,415k	£2,104k	£2,104k	-
	Operators Revenue	£44,060k	£11,015k	£11,015k	£11,015k
	User Benefits	£299,995k	£74,999k	-	-
<b>Present value of benefits</b>		<b>£352,470k</b>	<b>£88,118k</b>	<b>£13,119k</b>	<b>£11,015k</b>
<b>Net present value 2021/22 – 2035/36 (discounted to 2019/20 Prices)</b>		<b>£219,650k</b>	<b>£49,838k</b>	<b>-£25,161k <sub>6</sub></b>	<b>-£1,725k <sup>6</sup></b>

## Notes:

1. The values shown are approximate are intended to provide only indicative forecasts of costs and benefits (and are discounted to 2019/20 over a 15-year appraisal period)
2. Values shown are notional and are based on an assumption that all local authorities in Wales take forward this measure (which is not an expected outcome)

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3. Values shown are based on an assumption that 25% of local authorities in Wales take forward each of the three measures (WPS, franchising or local authority run bus services) and hence represents a notional scenario for illustrative purposes.
4. The values shown are financial (i.e. cash) only and exclude wider economic benefits to bus users.
5. The values shown are financial (i.e. cash) only, and show the impact on the bus operator sector only, and exclude costs and benefits to Welsh Government and local authorities, and wider economic benefits to bus users.
6. The NPV values shown are for illustrative purposes only and are intended to show the net present financial value (and hence do not include wider economic benefits)
7. Recurring costs to Welsh Government are for reimbursement of concession fares for additional passengers

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Table A3-3: Cost and benefit estimates for local authority run bus services

Costs and benefit elements <sup>1</sup>		All local authority areas implement <sup>2</sup>	25% adoption of measure <sup>3</sup>	25% adoption Financial Only <sup>4</sup>	25% adoption Operators' sector only <sup>5</sup>
Set-up costs (first round)	Welsh Government	£270k	£270k	£270k	-
	Local authorities	£23,935k	£5,984k	£5,984k	-
	Operators	-	-	-	-
	Users	-	-	-	-
Recurring costs (over 15 Years)	Local authorities	£320,575k	£80,144k	£80,144k	-
	Operators	£18,145k	£4,536k	£4,536k	£4,536k
	Users	-	-	-	-
<b>Total Costs</b>		<b>£362,925k</b>	<b>£90,934k</b>	<b>£90,934k</b>	<b>£4,536k</b>
Benefits (over 15 Years)	Local Authorities	£320,575k	£80,144k	£80,144k	-
	Operators Revenue	-	-	-	-
	User Benefits	-	-	-	-
<b>Total Benefits</b>		<b>£320,575k</b>	<b>£80,144k</b>	<b>£80,144k</b>	<b>-</b>
<b>Net present value 2021/22 – 2035/36 (discounted to 2019/20 Prices)</b>		<b>-£42,349k</b>	<b>-£10,790k</b>	<b>£10,790k<sup>6</sup></b>	<b>-£4,536k<sup>6</sup></b>

## Notes:

1. The values shown are approximate and are intended to provide only indicative forecasts of costs and benefits (and are discounted to 2019/20 over a 15-year appraisal period)
2. Values shown are notional and are based on an assumption that all local authorities in Wales take forward this measure (which is not an expected outcome)
3. Values shown are based on an assumption that 25% of local authorities in Wales take forward each of the three measures (WPS, franchising or local authority run bus services) and hence represents a notional scenario for illustrative purposes.
4. The values shown are financial (i.e. cash) only and exclude wider economic benefits to bus users.
5. The values shown are financial (i.e. cash) only, and show the impact on the bus operator sector only, and exclude costs and benefits to Welsh Government and local authorities, and wider economic benefits to bus users.

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6. The NPV values shown are for illustrative purposes only and are intended to show the net present financial value (and hence do not include wider economic benefits)

**9. Chapter 9: Impact Assessments**

**9.1 Background**

9.1.1 In addition to the cost and benefit impacts outlined in Chapter 8, a number of other potential impacts have been considered as part of an Integrated Impact Assessment. The full integrated impact assessment will be available on the Welsh Government website.

9.1.2 When the Bill is passed we will continue to work with stakeholders and relevant policy teams to monitor and review the impacts of the legislation. The separate impact assessments carried out as part of the Integrated Impact Assessment are summarised below.

**9.2 Well-being of Future Generations Act (2015)**

9.2.1 The Bill plays an important part in supporting the general principle of the Well-Being of Future Generations (Wales) Act 2015 which is about making positive interventions now in order to benefit people living their lives in Wales in the future. The Bill will contribute to each of the Act's seven goals and this Bill has been developed and continues to be developed in accordance with the five ways of working - with a focus on the long term, prevention, integration, collaboration and involvement.

**9.3 Social well-being impacts**

9.3.1 The social impacts of the Bill have been considered, with the proposals being anticipated to result in a positive effect on the social well-being of people and communities, they include:

- better connection of people to places – therefore improving access to social opportunities, education, employment, health, leisure, tourism and the wider community;
- a more integrated Welsh bus network coordinated with other modes of transport to help reduce reliance on the car and improve access to all groups of people; and
- encouraging a wider demographic to use buses with the aim of improved accessibility and attractiveness. Disabled people and women in particular can face barriers or disincentives to using bus transport.

**9.4 United Nations Conventions on the Rights of the Child**

- 9.4.1 A full Child's Rights Impact Assessment was undertaken on the provisions of the Bill.
- 9.4.2 The impact assessment identified that young people, particularly those aged between 17 and 20 are more reliant on buses than any other group, largely using services between school and home<sup>35</sup>.
- 9.4.3 The proposals in the Bill put in place measures whereby the accessibility and quality of bus services can be improved through more effective management and operation; this will increase the reliability, frequency and punctuality of services, which was identified by young people as a desired improvement. Improved access to information about bus services will also help children and young people to understand their travel options and help them access services accordingly.
- 9.4.4 An improved national bus network which provides easy to understand and use, coordinated network of routes and timings will improve access to opportunities for young people to relax and play.
- 9.4.5 In more rural areas, providing more flexibility through partnerships and franchising will allow for better transport integration, providing better access to leisure services and other opportunities for children and young people to relax and play.
- 9.4.6 The impact assessment concluded that there could be positive effects on children and young people as a result of the proposals, but noted that further consideration of impacts should be undertaken as and when local authorities choose to use any of the powers provided to them in the legislation.

**9.5 Equality Impact Assessment**

- 9.5.1 A full Equality Impact Assessment has been undertaken to consider differential impacts by protected characteristics.
- 9.5.2 The impact assessment found that on balance, and taking into account all of the proposals for the Bill, there would be positive impacts for groups sharing protected characteristics by enabling:

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<sup>35</sup> Is Britain Fairer? The state of equality and human rights (2018)

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- an easy to understand, reliable and consistent bus service to improve access for disabled people (and their carers), older people and young people;
- provision of improved travel opportunities, simpler fares and better deals as young people find transport costs a particular barrier to education and jobs;
- improved access to education and employment opportunities for young people;
- national standards and quality improvements to local bus services, which could provide opportunities for increased training for bus staff in respecting those with protected characteristics, and could create opportunities to diversify the workforce;
- additional standards and improved information sharing, which would improve services for those who do not have English/Welsh as a first language; and
- better information sharing and further data on services. This will help improve perceptions of safety on public transport for several groups such as older people and LGBT+ users.

### **9.6 Impact on Welsh Language**

9.6.1 A Welsh Language Impact Assessment has been carried out which has found that:

- open data and service information would provide an opportunity for creating comprehensive and improved bilingual platforms to access information about bus services;
- many Welsh speaking communities are rural, and with improvements to public transport and information in rural areas, journey planning would become easier and therefore bus travel more convenient for these users; and
- improvements brought about by improved partnership working and franchising could remove barriers to public transport for Welsh Speakers in rural communities thereby improving access to employment, facilities and services. This contributes to enabling



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Welsh Speakers to have the chance to remain in Welsh-speaking areas to build careers and family lives.

9.6.2 The Welsh Language Impact Assessment noted that as the scale of change resulting from the Bill proposals is not known at this stage, that further Assessments would be required at implementation and delivery stages, when the scope of the change at a regional or local level is better known.

9.6.3 It also stated that the Welsh Government and local authorities must also continue to consider the impact of policy decisions on the Welsh language. This is of particular relevance in relation to implementing and delivering Welsh Partnership Schemes (WPS), franchising, and local authority-run buses.

### **9.7 Rural proofing**

9.7.1 The rural proofing assessment has shown that there are generally positive impacts.

9.7.2 The provisions will enable more efficient and attractive bus services, which could help achieve annual decreases in travel costs for passengers. They would also bring indirect benefits to well-being in rural communities by increasing access to employment, services and education, thus helping combat social isolation and improve socio-economic mobility, and access to services.

9.7.3 The proposals would give the local authorities the power to find an approach which best meets the needs of people and businesses in their area, assisting rural businesses to expand.

### **9.8 Impact on privacy**

9.8.1 The Bill does not produce any new requirements relating to privacy or the sharing of information. The impact assessment undertaken has found that there will be no impact as a result of this legislation.

### **9.9 Impact on Biodiversity**

9.9.1 The Biodiversity Impact Assessment identified that there would be positive impacts on biodiversity due to improvements to the sustainability of bus services and opportunities for infrastructure to be enhanced. The

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proposals seek to encourage greater patronage and reduced reliance on cars, which would help to improve air quality.

9.9.2 It also noted that promoting the use of public transport as part of a more sustainable lifestyle can raise public awareness of how reductions in emissions can protect biodiversity. Therefore positive behaviours and attitudes can be fostered by the general public, including a potential increased uptake of public transport, helping to live in a more sustainable way and supporting the protection of the environment and biodiversity of the local area.

9.9.3 The assessment concluded that the adoption and enactment of the provisions will make clearer the impacts on Biodiversity, at which point requirements under legislation would need to be addressed by the relevant authorities.

### **9.10 Health Impacts**

9.10.1 Research on the health impacts of the Bill demonstrates overall a generally positive effect on health, including mental health. Improving the reliability of bus networks, increasing the provision of public transport and optimising routes to meet local needs would improve access to a wide range of services, opportunities, education, employment social networks and recreational spaces, all of which can contribute positively to health and wellbeing.

9.10.2 The assessment notes that it is important to ensure that service provision and information sharing meets the needs of the different vulnerable groups in Wales, so they are not further isolated from services and opportunities and instead benefit from the improved transport services the Bill will enable and deliver.

**9.11 Impact on the justice system**

9.11.1 The potential impacts on the justice system of the proposals have been considered, including on:

- a. courts (criminal and civil);
- b. non-devolved tribunals;
- c. devolved tribunals;
- d. legal aid;
- e. the judiciary;
- f. prosecuting bodies; and
- g. prisons, youth justice and probation services.

9.11.2 A Justice System Impact Assessment has been submitted to the Ministry of Justice. A summary of the justice system impact assessment of each of the legislative proposals is provided below.

9.11.3 **Welsh Partnership Scheme** - This proposal does not create any new offences and there are only minor amendments to the provision for appeals of Traffic Commissioner decisions. Due to the partnership approach and objection provisions included in the Wales Partnership Scheme we consider the risk of challenge by way of judicial review if and when these powers are used to be low.

9.11.4 **Franchising** –This proposal does not create any new offences, but the provisions include a right for bus operators to appeal to the upper tribunal in connection with a refusal by the Traffic Commissioner to register a service, or the variation or revocation of a registered service, in accordance with section 6B of the Transport Act 1985 (i.e. a service that does not fall within the remit of a franchising scheme and in respect of which local authorities are required to issue clearance certificates). A move to franchising in a local area could be controversial and there is a risk that a decision in a local area to move to franchising is judicially reviewed. However it is anticipated that only a low number of franchising schemes would be pursued, therefore it is considered that the potential for appeals or judicial review claims to be pursued is also likely to be low.

9.11.5 **Local authority run bus services** – This proposal does not create any new offences. The risk of judicial review proceedings being brought in connection with a decision to provide local authority run bus services on non-commercial bus routes is considered to be low, as in these circumstances there are unlikely to be other operators with an interest in

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providing the service concerned. A move to provide local authority run bus services on commercial bus routes may be controversial. However, the take up of this form of service where the market is operating effectively is likely to be low and consequently the risk of a challenge being brought is also considered to be low.

- 9.11.6 **Information sharing** – This proposal will create a new summary offence in connection with the unlawful disclosure of information. It is anticipated that there will be a very low number of cases brought each year. It is therefore expected that the new offence will have minimal effect on the court system.

### **9.12 Competition assessment**

- 9.12.1 The Welsh Government's competition filter test (set out below) has been applied to the Bill which is the preferred option as set out in the Regulatory Impact Assessment:

The competition filter test	
Question	Answer yes or no
<b>Q1:</b> In the market(s) affected by the Bill, does any firm have more than 10% market share?	Yes*
<b>Q2:</b> In the market(s) affected by the Bill, does any firm have more than 20% market share?	Yes*
<b>Q3:</b> In the market(s) affected by the Bill, do the largest three firms together have at least 50% market share?	Yes*
<b>Q4:</b> Would the costs of the Bill affect some firms substantially more than others?	No
<b>Q5:</b> Is the Bill likely to affect the market structure, changing the number or size of firms?	Yes
<b>Q6:</b> Would the Bill lead to higher set-up costs for new or potential suppliers that existing suppliers do not have to meet?	No

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The competition filter test	
Question	Answer yes or no
<b>Q7:</b> Would the Bill lead to higher ongoing costs for new or potential suppliers that existing suppliers do not have to meet?	No
<b>Q8:</b> Is the sector characterised by rapid technological change?	No
<b>Q9:</b> Would the Bill restrict the ability of suppliers to choose the price, quality, range or location of their products?	No

Note: the competition filter test has been applied on a pan-Wales basis. However, it should be noted that it is highly unlikely that all authorities will adopt the same measure due to different requirements / operating markets.

\*Although we do not have access to commercial patronage data, we have fleet size information and the number of concessionary passengers as a proxy for market share. There has been a significant degree of consolidation within the industry in areas with commercial potential, with most local authorities having a dominant operator.

### **9.12.2 Background to the market**

9.12.3 The delivery of bus services in Wales is complex.

9.12.4 The Transport Act 1985 deregulated local bus services in the UK outside London and Northern Ireland. The deregulation of bus services created a fundamental change in service delivery to the travelling public. In the deregulated market, licensed operators can register any service they choose to operate on a commercial basis, provided they meet the licence and operating requirements of the Traffic Commissioner.

9.12.5 Although there is no statutory duty to provide subsidised local bus services, local authorities can invite tenders under section 63 contracts for

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additional routes or services where they consider that social needs are not being met commercially.

- 9.12.6 As such, the bus services operated and provided across Wales are a mix of commercial and subsidised services.
- 9.12.7 Predominantly, commercial bus services are operated along main strategic bus routes and in areas of high population. Commercial bus services normally provide a profit to the bus company which in turn ensures their continued viability and sustainability.
- 9.12.8 Commercial bus services receive a 'pence per commercial kilometre' contribution from the local authority through the Bus Services Support Grant (BSSG) provided to them by the Welsh Government. This replaced the previous Fuel Duty rebate and Bus Service Operators Grant schemes, which were designed to keep fares lower than they otherwise would be. The payment of BSSG to each operator is subject to their participation in the Wales Voluntary Bus Quality Standard that is designed to provide service levels commensurate with passenger expectations.
- 9.12.9 Operators also receive revenue foregone in exchange for the free carriage of eligible users of the mandatory concessionary fares scheme for Wales on a no better or worse off principle to the bus operator.
- 9.12.10 Commercial routes by their nature are required to make a financial return on the investment, whilst meeting the needs of passengers in that area. There is therefore an inherent risk, that the commercial model alone does not meet the needs of all potential users where this has a negative impact on profitability.
- 9.12.11 In highly populated more urban areas there is a tendency for bus operators to compete with each other on the road and at bus stops to pick up passengers; however there is limited head-to-head competition along whole route lengths. There can be some benefits of a deregulated market as on-road competition could encourage lower fares and higher service quality. However, it also brings some potential dis-benefits which include, long term viability and quality of services due to a shared market place as

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well as additional costs to the pence per commercial kilometre mile contribution through the BSSG.

- 9.12.12 The Competition Commission's 2011 research into the competitiveness of the bus industry in Great Britain<sup>36</sup> made a number of relevant points, notably:

*"We found that 46% of routes, accounting for 63% of services in the reference area, do not face effective head-to-head competition. Only 3% of routes, accounting for 1% of weekly services, are likely to face effective head-to-head competition. For the remaining routes, a lack of flow-level information prevented us drawing firm conclusions on the extent to which they faced head-to-head competition. Nevertheless, the extent of overlap faced by these routes suggested that, at least in a substantial number of cases, a large pro-portion of passengers on these routes were unlikely to have a choice of operator" (page 9); and*

*"the process of head-to-head competition, driven by an incentive to increase frequency, could in some circumstances lead to the creation of excess capacity (i.e. more buses being run on the route than can attract sufficient revenue to cover costs). This may reduce the profitability of operators and result in their becoming loss-making. An operator will have an incentive to add services, and it will do so as long as the effect is to add more revenue than the increase in costs. Excess capacity can arise as the competing operators would each add extra services because individually these extra services can be timed so as to take revenue from the rival operator's services (by running shortly ahead of them) and scheduled to maintain or improve the individual operator's network advantages" (page 8-8)*

- 9.12.13 Analysis of the Electronic Ticket Machine requirements for bus operators participating in the Wales Mandatory Concessionary Fares scheme showed that there are around 70 passenger carrying vehicle operators in Wales operating bus services as part of their main business.
- 9.12.14 There is a large degree of variance between the number of vehicles operated by each company, ranging from small companies with one or two vehicles, to local subsidiaries of multi-national companies operating in excess of 300 vehicles in Wales. There are two municipally owned bus

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<sup>36</sup> Competition Commission. *Local bus services market investigation: A report on the supply of local bus services in the UK (excluding Northern Ireland and London)*. December 2011.

companies operated at arm's length from their shareholder. The analysis noted six companies accounted for 67% of the Welsh bus fleet.<sup>37</sup>

**9.12.15 Enabling provisions**

9.12.16 **Welsh Partnership Scheme (WPS)** - The establishment of WPS would not have a significant impact on the market and competition as essentially local authorities would be working closely with operators to agree standards for service provisions in the area. Arrangements would be such that any new operators wanting to enter the market where a WPS is in place would have a fair and equal opportunity to join the partnership.

9.12.17 WPSs will be required to contribute to policies contained within the relevant local transport plan, be developed in partnership with bus operators and be subject to a meaningful consultation process. In order to ensure a partnership balance between local authorities and bus operators, the intention is that WPSs will have formal objections provisions for bus operators regarding service standards and will be subject to the appropriate competition tests.

9.12.18 **Franchising** - The introduction of franchising would lead to competition 'for the market', as operators would be directly competing with each other to win the franchise contract. One of the factors that must be considered by a local authority wanting to franchise services in their area is that they must take account of Small and Medium sized Enterprises and ensure franchising contracts are designed in such a way as to enable all operators, large and small, to compete for contracts. The 'clearance certificate' system (see Explanatory Notes at Annex 1 for more detail) would enable operators to register services, providing the services would not negatively impact on the franchised network. The actual impact of franchising will vary on a case by case basis. Each franchising proposal must be thoroughly considered through a detailed business case, which will be subject to an independent audit, followed by a formal consultation. Only then can a decision to franchise be made.

9.12.19 **Local Authority Run Bus Services** - Local authorities choosing to run bus services directly is unlikely to have a significant impact on competition as the most likely scenario under which a local authority may consider running services directly is where competition is poor or non-existent when trying to contract for subsidised services. The legislative changes mean that local authorities would be able to enter the market and operate

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<sup>37</sup> The analysis is based on proxy data (the number of ticket machines on buses in Wales can be used a proxy for the number of buses in service for each operator).



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commercial services to make a profit in the same way as any other commercial operator. The participating local authority would need to ensure compliance with State Aid rules and competition law, and would be subject to the same competitive constraints and registration requirements as any other operator.

- 9.12.20 Overall, the Welsh Government expects the enabling provisions themselves to have a negligible impact on competition. There may be some net losses to individual business pending the outcome of their bids; however, companies are currently competing on road and face potential competition from the same competitors. The foundation of any franchise would be a strong positive impact on society, with benefits to passengers and improved quality of services.
- 9.12.21 Before deciding to proceed with arrangements under one of the enabling provisions, local authorities will be required to undertake a thorough assessment of proposals and their impacts, costs and benefits. Also, the Competition and Markets Authority (CMA) are mandatory consultees for consultations on proposals for franchising.
- 9.12.22 Information sharing**
- 9.12.23 The information sharing provisions are not expected to raise any competition issues. All operators will be required to provide the same information, so all will be impacted equally.

**10. Post implementation review**

**10.1 Background**

10.1.1 The proposed Bill will put in place enabling provisions that will provide a suite of tools for local authorities to consider using when planning and delivering bus services, including improved partnership working arrangements (Welsh Partnership Scheme), franchising and local authority run bus services. The proposed Bill will put in place new information sharing arrangements, covering service information and open data provisions so that information to the public would be more accessible and reliable, and local authorities would be in a better position to make arrangements to address changes in service provision.

10.1.2 It is assumed that the subordinate legislation to implement the Bill would not come into force before spring 2022. For the avoidance of doubt, in this document (Chapter 10), the term “post implementation” refers to the time following implementation of necessary subordinate legislation.

10.1.3 Through the work in developing the proposals and engaging with stakeholders, the Welsh Government has developed useful baseline of the current position in relation to bus delivery in Wales, which will assist in reviewing the implementation.

**10.2 Enabling provisions**

10.2.1 If local authorities decide to use one of the tools under the enabling provisions in the Bill, they would be required to undertake a detailed assessment of the implications before deciding whether to proceed, including a full financial assessment of the costs and benefits. They would also be required to undertake further steps, such as consultations and audit assessments depending on which tool they are intending to use. Therefore, there is likely to be a considerable period of time before a partnership agreement, franchising scheme or local authority run bus service, using the provisions in the Bill, is in operation.

10.2.2 No more than 5 years after implementation, the Welsh Government will undertake an initial review and gather evidence in relation to how local authorities have responded to the enabling legislation and the level and scale of take-up of the provisions. It will also assess the guidance produced under the legislation for local authorities in terms of the usability, whether it reflects best practice and what revisions may be required based

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on the feedback. It will also consider whether there are any other issues that are affecting implementation.

- 10.2.3 No more than 10 years after implementation, once the tools have been used and have been running for a period of time, the Welsh Government will carry out a further review, assessing the impacts on the services provided. This review will also assess the impacts on bus operators and local authorities, particularly in terms of costs of using the tools. This will be done through the Welsh Government's ongoing engagement with key stakeholders, including local authorities, bus operators, bus operator representatives, the Traffic Commissioner, and passenger representative groups. This will be done through analysis of departmental, Welsh and UK level statistics regarding bus services, to assess whether there has been a change in patronage, where the tools are in use.
- 10.2.4 The review undertaken no more than 10 years post implementation will be used to determine the impact of the legislation on the industry and whether it has brought about the intended effect and has provided benefits to passengers and Welsh communities. Key matters for consideration will include impacts on bus patronage, frequency of services, quality of services (including punctuality and reliability), integration of services, hours of operation and subsidy requirements. Feedback from passengers, and from passenger representative groups, will also be used to assess the effectiveness of the operating model introduced.
- 10.2.5 Information Sharing provisions**
- 10.2.6 The post implementation review of the information provisions will be undertaken 5 years after the Bill receives Royal Assent.
- 10.2.7 Open data – the Welsh Government will engage with local authorities and Traveline Cymru in order to determine the level, quality and accuracy of information being received from bus operators in comparison to that before the new legislation was introduced. It will also gather data relating to the uptake of information by journey planner providers and smartphone application (App) developers. This information will be used to determine whether information provided in accordance with the legislation is reaching the public. It will assess passenger satisfaction with access to and availability of information about bus services through passenger satisfaction surveys and feedback from representative groups. It will also assess the impact on operators in terms of associated costs and whether

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improved availability of information is considered to have impacted upon patronage.

10.2.8 Service Information – the Welsh Government will seek feedback from local authorities concerning:

- tender price trends for subsidised services in order to assess whether the service information provisions have contributed to more competitive tendering; and
- whether the provision of service information has assisted local authorities to better plan their local bus networks.

10.2.9 The Welsh Government will use this information to assess whether the legislation has achieved the intended effect.

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### EXPLANATORY NOTES

#### INTRODUCTION

1. These Explanatory Notes are for the Bus Services (Wales) Bill which was introduced to the National Assembly for Wales on xx. They have been prepared by the Transport Department of the Welsh Government to assist the reader of the Bill. The Explanatory Notes should be read in conjunction with the Bill but are not part of it.
2. The Explanatory Notes are not meant to be a comprehensive description of the contents of the Bill. Where an individual provision of the Bill does not seem to require any explanation or comment, none is given.

#### Summary of Bill provisions

3. The Bill will make changes to the legislative framework relating to the planning and delivery of local bus services in Wales. Broadly speaking it will amend existing legislative provisions so as to provide local authorities with a range of tools for the planning and delivery of local bus services in their areas.
4. The Bill will also put in place new information sharing arrangements relating to routes, fares and timetables.
5. The Bill contains provisions that will:
  - amend the current provisions on partnership working arrangements between local authorities and bus operators set out within sections 114 to 123 of the Transport Act 2000 (which become known as Welsh Partnership Schemes);
  - amend the Quality Contracts Scheme system of franchising set out within sections 124 to 134B of the Transport Act 2000 (which become known as Welsh Franchising Schemes);
  - remove the restriction which currently prevents a local authority from running bus services so that they will be able to, either in-house or through a company, provide local bus services in their area or collective areas where acting jointly;
  - enable the Welsh Ministers to make regulations requiring the provision of prescribed information about Welsh bus services by operators, local authorities and the Traffic Commissioner for the purpose of making information available to passengers about the bus services operating in Wales; and
  - enable local authorities to require bus operators to provide prescribed information when registered services are withdrawn or varied and the local authority is seeking to maintain the level of service.

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### **General background**

#### Regulatory framework

5. The regulatory framework for the provision and funding of bus services in Wales is similar to that for England (outside London) and Scotland, and is based on a commercial market with some government subsidy and funding for concessionary travel. Local authorities have a range of powers including the ability to subsidise otherwise non-commercial services where necessary.

#### Legislative Background

6. The legal framework for bus services in Wales is primarily contained in the following Acts:
  - Transport Act 1968 (“the 1968 Act”);
  - Public Passenger Vehicles Act 1981 (“the 1981 Act”);
  - Transport Act 1985 (“the 1985 Act”);
  - Transport Act 2000 (“the 2000 Act”); and
  - Transport (Wales) Act 2006.
7. The 1968 Act is not amended by the Bill and its provisions are not specifically relevant to the matters dealt with by the Bill.
8. The 1981 Act establishes traffic commissioners for traffic areas in England and Wales and in Scotland (Part 1) and makes provision about public service vehicles (PSVs) and the licensing of persons to operate them (Part 2). The 1981 Act is not amended by this Bill (indeed PSV operator licensing is a matter reserved to the UK Parliament under paragraph 113 of Schedule 7A to the Government of Wales Act 2006). However, these provisions are significant because an operator of a local bus service must hold a PSV license in order to register the local service under section 6(4) of the 1985 Act or to enter into a franchise contract for local services under section 130 of the 2000 Act (unless in either case the operator has a community bus permit granted under section 22 of the 1985 Act).
9. The 1985 Act in effect took the operation of local bus services out of the hands of local authorities and created an open market for the private operation of local bus services (with some exceptions). This was known at the time as “deregulation” although there is a regulatory framework established by the 1985 Act in relation to the registration of bus services.. Therefore, provided an operator registers a service with the Traffic Commissioner under section 6 of the 1985 Act, they can operate any route they wish to any timetable (subject to certain limitations).
10. Part 4 of the 1985 Act restricts local authority involvement in the market for bus services to cases where the private sector is not meeting the public transport needs of an authority area (section 63 – see paragraph 11 below). Insofar as that restriction applies in Wales, it is being removed by the amendments made by Part 3 of the Bill so that local authorities in Wales are able to directly provide local bus services.

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11. Section 63 of the 1985 Act requires local authorities to secure the provision of public transport services as the authority considers appropriate to meet the needs of the authority's area as respects public transport. That section then permits local authorities to subsidise services if they consider that unless they did so a public transport requirement in the local authority area would not be met.
12. The 2000 Act makes extensive provision about various modes of transport. Part 2 of the Act deals with local transport and local bus services in particular.
13. Section 108 of the 2000 Act requires local authorities to develop policies relating to transport in the authority's area and for the implementation of the Wales Transport Strategy (required under the 2006 Act). Each local authority must then prepare a local transport plan setting out those policies and the proposals for implementing them.
14. Much of the remainder of Part 2 of the 2000 Act contains provisions providing local authorities with various options to help secure the provision of local bus services. In relation to Wales these are quality partnership schemes (being amended by part 2, chapter 1 of this Bill to become Welsh partnership schemes), quality contract schemes (being amended by part 2, chapter 2 of the Bill to become Welsh franchising schemes) and ticketing schemes.
15. The 2006 Act makes general provision about transport in Wales, including, in particular, imposing a duty on the Welsh Ministers to publish the Wales Transport Strategy (section 2), amending the sections of the 2000 Act dealing with local transport plans (section 3 and the Schedule), giving the Welsh Ministers powers similar to local authorities in respect of securing transport services in Wales that would not otherwise be met, including providing subsidies, (section 7) and providing powers for joint transport authorities to be established by order (section 5). A joint transport authority is a body that may be established in order to carry out specified transport functions of two or more Welsh local authorities. If such a body is established some of the functions it could undertake could be the local authorities' functions in relation to local bus services as set out in the 1985 and 2000 Acts. If those functions were transferred to a joint transport authority the order which did so would also make provision for the relevant references to local authorities in the 1985 and 2000 Acts to be read as if they were references to the joint transport authority.
16. Note however that Part 5 of the Local Government and Elections (Wales) Bill currently progressing through the Senedd makes new provision for collaborative working between local authorities in Wales. Regulations made under that Part may establish corporate joint committees consisting of two or more local authorities which may exercise functions transferred to those committees by the regulations. The functions which may be transferred include transport functions. This new system replaces the Joint Transport Authority system in respect of transport functions and as a result the provisions of the 2006 Act in relation to Joint Transport Authorities are proposed to be repealed by that Bill.
17. In the event that corporate joint committees are established by regulations under the Local Government and Elections (Wales) Bill to carry out transport functions, the regulations will make provision ensuring that references to local authorities in Wales in the relevant transport legislation are to be read as references to the joint committees. This may include references in the 1985 and 2000 Acts as amended by this Bill.

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18. Note also that the 1985 and 2000 Acts were recently amended by the Bus Services Act 2017. That Act is English only legislation that makes provision about how bus services in England are planned and delivered. It includes new partnership and franchising arrangements as well as information sharing provisions for England only. The amendments made by that Act apply in relation to England only but are taken into account by amendments to those Acts made by this Bill when it comes to numbering and placement of new provisions.
19. In contrast, the Transport (Scotland) Act 2001 also makes amendments to the 1985 Act because that Act extends to Scotland as well as to England and Wales. However, an Act of the Scottish Parliament can only make provision that extends to the jurisdiction of Scotland. So for the purposes of this Bill, any amendments to the 1985 Act made by the Scottish Act are treated as if they do not exist (as a matter of law they do not exist in the jurisdiction of England and Wales). For example, the Scottish Act inserts new sections 6K to 6N into the 1985 Act but those sections do not exist in the jurisdiction of England and Wales. Therefore section 12 of the Bill also inserts new sections 6K to 6O into the 1985 Act but those new sections will form part of the law of England and Wales only and will be considered not to exist for the purposes of the law of Scotland.

### Glossary of existing legislative expressions

20. There are several expressions used in these Notes which are drawn from existing legislation. This paragraph sets out and explains the most common;

*“community bus permit”* is a permit granted by the traffic commissioner under section 22 of the 1985 Act. It may be granted to exempt bodies (in effect a non-commercial operator) in connection with the use of a public service vehicle to provide community bus services, or to provide a community bus service (other than in the course of a local service) carrying passengers for hire or reward where the carriage of those passengers will directly assist the provision of the community bus service by providing financial support for it. (And *“community bus service”* means a local service provided by an exempt body concerned with the social and welfare needs of a community without a view to profit (either for the body or any other person) by means of a vehicle adapted to carry more than eight passengers.)

*“local service”* is defined by section 2 of the 1985 Act and the same definition applies in Part 2 of the 2000 Act. While there are some exceptions, it generally refers to a service using one or more public service vehicles for the carriage of passengers by roads for separate fares with stopping places less than 15 miles apart.

*“local transport authorities”* (LTAs) in Wales are the local authorities, that is, the 22 county and county borough councils. In this document the term local authorities is used.

*“public service vehicle”* (PSV) is defined by section 1 of the 1981 Act and means a motor vehicle which is either (i) a vehicle adapted to carry more than 8 passengers that is used for carrying passengers for hire or reward or (ii) a vehicle that isn't adapted that is used



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for carrying passengers for hire or reward at separate fares in the course of a business of carrying passengers.

*“Traffic Commissioners”* are appointed by the Secretary of State for Transport under section 4 of the 1981 Act. The Traffic Commissioner for Wales is the independent regulator with responsibility for the registration of local bus services in Wales and responsibility for licensing operators of PSVs and large goods vehicles.

## **PART 2, CHAPTER 1 – WELSH PARTNERSHIP SCHEMES (WPS)**

### **Summary of the amendments**

21. This Part amends sections 114 to 123 of the 2000 Act and amends the provisions about registration of local bus services in the 1985 Act that are connected with the establishment of WPSs (sections 6 to the proposed new 6O).
22. The effect of the amendments is to allow local authorities in Wales to establish “Welsh partnership schemes” (WPS). These schemes were formally known as “quality partnership schemes” (QPS).
23. The amendments made by sections 2 to 12 of the Bill extensively modify the QPS regime and rename the schemes as Welsh partnership schemes (WPS). Although the Bus Services Act 2017 introduced two new types of schemes for England into the 2000 Act it is not made clear by the names of the new schemes that they relate only to England. Therefore the renaming of QPSs to Welsh partnership schemes makes it clear that these schemes relate to Wales. The renaming also reflects the fact that there are changes in the ways in which WPSs operate and in the scope of things that may be covered by a WPS compared with the existing QPS regime.
24. The main changes are:
  - Under a WPS a local authority may provide facilities (as with a QPS) but may also take measures (either along with facilities or not) such as traffic management measures. Local services which use the facilities or benefit from the measures in a WPS must be provided in accordance with service standards specified in the scheme for the service.
  - There is a wider range of things that may be specified as service standards under a WPS. These are categorised into “route requirements” (requirements relating to the frequency and timing of a route) and “operational requirements” (anything else, including requirements about the types of vehicles used and about fares and ticketing).
  - There is a wider range of service standards that may be objected to by operators under a WPS. Any route requirement and any operational requirement relating to fares or ticketing may be objected to (as opposed to the equivalent of route requirements and requirements about setting maximum fares under a QPS).
  - However, for a requirement to be removed from a WPS as a result of objections, there must be a sufficient number of admissible objections made by operators (regulations will set out what counts as a sufficient number and what objections are admissible). Under a QPS a single objection (provided it is admissible under the regulations) is enough to cause a requirement to be removed from a scheme.

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### Legislative Background

25. The Introduction section of these explanatory notes provides the wider legislative context to the provision of bus services. Paragraphs 26 to 32 below set out the specific legislative background to WPS.
26. Currently, sections 114 to 123 of the 2000 Act allow local authorities in Wales, either alone or jointly with other local authorities (including with local authorities in England), to make a QPS if they think it will help the local authority implement their local transport policies.
27. Prior to the amendments made by the Bus Services Act 2017 a QPS could be established by local authorities in England. However that Act replaced QPSs with two similar England only alternatives; advanced partnership schemes and enhanced partnerships. As a result of those changes local authorities in England can now only be involved in QPSs if they are made jointly with a local authority in Wales.
28. A QPS is a scheme where a local authority or local authorities provide facilities (such as bus lanes, bus stops, bus stations or terminuses) in the whole or part of the QPS area and in return, operators who want to use those facilities undertake to provide local services to the standards specified in the QPS by the relevant local authority.
29. A QPS is therefore a mechanism for local authorities to negotiate certain standards of local bus services in what would otherwise be an open market for the registration of services. Unlike a quality contracts scheme (or Welsh franchising scheme, as it will be renamed) a QPS does not provide operators with exclusive rights to operate a route.
30. Although a QPS may impose requirements on the operators of a service within the scheme area, the scheme cannot have an adverse effect on competition in the area unless that effect is justified for the purposes of:
  - securing improvements in the quality of vehicles or facilities used for or in connection with the provision of local services;
  - securing other improvements in local services of benefit to users of local services; or
  - reducing or limiting traffic congestion, noise or air pollution.
31. The effect of the service requirements on competition must be proportionate to the purpose (see the “competition test” in paragraph 2 of Schedule 10 to the 2000 Act). The Competition and Markets Authority has power under Schedule 10 to investigate a scheme if it thinks the scheme may not meet the competition test.
32. Voluntary arrangements are also available to bus operators and local authorities, where local authorities can agree to exercise their functions in particular ways and operators in return agree to provide improved bus services with the aim of promoting bus use. Such voluntary schemes are still subject to the competition test in paragraph 2 of Schedule 10 to the 2000 Act. The principal difference between a voluntary scheme and a QPS is that under a QPS all operators in a QPS area are legally obliged to comply with the service standards set out in the scheme otherwise the operator is not allowed to use the facilities provided by the local authority under the scheme (failing to meet

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service standards while using facilities under a QPS may result in financial penalties being imposed under section 155 of the 2000 Act).

### **Detailed commentary on sections in Part 2, Chapter 1 of the Bill**

#### **Section 2 – Welsh Partnership Schemes**

33. Section 2 of the Bill amends section 114 of the 2000 Act to introduce Welsh Partnership Schemes. Section 114(1) allows one or more local authorities to make a Welsh Partnership Scheme (WPS), alone or jointly, provided that the making of a WPS would contribute to the policies set out in their local transport plan (see the amendment made by subsection (3)(a)(ii)). A local transport plan is a plan prepared in accordance with section 108 of the 2000 Act which sets out the policies of the local authority for the promotion and encouragement of safe, integrated, efficient and economic transport to, from and within their area and the policies of the local authority intended to contribute to the Wales national transport strategy.
34. Section 114(1A) of the 2000 Act provides that a WPS may be made jointly between Welsh local authorities or may be made by an English authority provided that it is made jointly with a Welsh authority. This permits schemes to be made that cover local services operating across the Welsh/English border.
35. Subsection (3)(c) of the Bill inserts new subsections (2), (2A), (2B), (3) and (3ZA) into section 114 of the 2000 Act, setting out what a WPS is.
36. A local authority may establish a WPS by providing either facilities (section 114(2A)), measures (section 114(2B)) or a combination of both facilities and measures. In return, any operator who wishes to use those facilities or provide a local service on a route with one or more stopping places in the area to which such a measure relates, are required to provide local services in accordance with service standards specified in the scheme.
37. Facilities and measures are set out in more detail at new section 114A (inserted by section 3 of the Bill) and service standards are explained further by new section 114B (inserted by section 4 of the Bill). Further explanation of section 3 of the Bill is provided in paragraph 42 and 43 of this note.
38. A WPS cannot be made unless the participating local authorities are satisfied that the scheme improves the quality of local services in the relevant area, including such things as better quality vehicles, or that the scheme improves environmental impact on the area (in terms of noise, air quality or congestion) or that it provides other improvements such as a reduction in the decline of service use or an increase in service use (new section 114(3) and (3ZA)).
39. Section 3 of the Bill does not alter the existing provisions permitting registration restrictions to be imposed in relation to certain local services (subsections (3A) to (3D) of section 114 of the 2000 Act). Section 114(3A) of the 2000 Act allows local authorities to impose registration restrictions upon services covered by a WPS; restricting the registration of local services where they consider that the provision, variation or

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withdrawal of that service would be detrimental to the provision of services under the scheme (Section 114(3B) of the 2000 Act). Section 114(3C) of the 2000 Act provides that a WPS which includes registration restrictions must also specify the registration criteria by which a Traffic Commissioner must decide whether or not to accept an application for registration.

40. Where an application is made to register, vary or cancel a service which is subject to registration restrictions, the Traffic Commissioner must go through the process set out in new section 6AA of the 1985 Act when deciding whether to accept the application for registration, variation or cancellation. Section 6AA is inserted by section 11(3) of the Bill and is discussed further at paragraph 71 below.
41. Subsection (3)(e) removes several subsections from section 114 of the 2000 Act dealing with facilities, service standards and objections, matters which are now dealt with in new sections 114A, 114B and 114C respectively.

### **Section 3 – Facilities and Measures**

42. Section 3 inserts new section 114A into the 2000 Act and sets out in more detail the types of facilities and measures that may be included as part of a WPS. The facilities to be provided under a scheme must include facilities (such as bus lanes, bus stations, bus interchanges and shelters) at specific locations along bus routes (or where appropriate prospective bus routes) which bus operators can use; they may include other ancillary facilities also. Any facilities or measures put in place by the local authority must be taken for the purposes of either increasing (or reducing the decline in) the use of local services or improving the quality or effectiveness of local services within the relevant area (new section 3ZA). However facilities or measures that relate to providing information cannot form part of a WPS if the local authority has to provide, or take, them as a result of their duties in relation to making information available under sections 139 and 140 of the 2000 Act.
43. Section 114A(3) and (4) require a WPS to be made jointly by the local authority and the traffic authority where a facility cannot be provided, or a measure taken, without the making of a traffic regulation order for a road or roads for which the local authority is not the traffic authority. For motorways and trunk roads in Wales the traffic authority is the Welsh Ministers. Where a WPS straddles the Wales/England border it may cover roads in England where the Secretary of State is the traffic authority. “Traffic regulation order” is defined in section 162(1) of the 2000 Act.

### **Section 4 – Service standards**

44. Section 4 inserts new sections 114B and 114C into the 2000 Act, which respectively make provision about: the types of service standards that may be imposed on local services by a WPS and operators’ objections to service standards in a WPS.
45. Section 114B(1) states that service standards can be either “route requirements” or “operational requirements”.

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46. A route requirement (section 114B(1)(a)) is a requirement in relation to the frequency or timing of services. Any other requirement is known as an operational requirement. Sections 114B(3) to (7) sets out examples of the types of things that may be operational requirements, for example requirements in relation to the vehicles used to provide services, ticketing, fares, or the provision of information to the public about local services.
47. A service standard cannot be imposed on the use of vehicles under community bus permits (section 114B(9)).
48. Section 4 inserts new section 114C which allows operators to object to the imposition of route requirements or operational requirements concerning ticketing, fares and the manner in which entitlement to travel may be evidenced. The objections must be admissible and regulations under section 122 of the 2000 Act will set out the criteria by which an objection may be considered to be admissible. Under section 114C(1), if a sufficient number of objections are received against the imposition of a service standard, the standard may not form part of the scheme. Again, regulations under section 122 will set out what a sufficient number is or how it is to be determined.

### **Section 5 – Notice and consultation**

49. Section 5 makes minor amendments to section 115 of the 2000 Act which is concerned with notice and consultation requirements prior to making a WPS. A scheme may not be made without prior consultation with bodies specified in section 115, including bus operators, representatives of bus users and other local authorities.
50. Notice of a scheme must be given in such manner as the local authority thinks fit in order to bring it to the attention of persons within that area (section 115(1)).

### **Section 6 – Making of scheme**

51. Section 6 amends sections 116 and 117 of the 2000 Act which respectively make provision about the making (as proposed or with modifications) and the postponement of a WPS.
52. New section 116(1A) allows for the facilities, measures and service standards of the scheme to be introduced on different dates if required. Section 116(2) sets out the information required to be included in a notice of a WPS but note that the amendment made by section 6(1)(b)(iii) of the Bill removes the requirement that scheme must be established for a period of at least 5 years.
53. The Bill does not amend section 116(3) which permits certain services to be excluded from schemes where this is considered appropriate (for example a community bus service acting as a feeder to a main bus route).
54. New subsections (4) to (4C) of section 116 set out the earliest dates from which facilities have to be provided or measures must be taken under a WPS and the earliest dates on which service standards may be imposed on operators under a WPS.

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55. In section 116(4) the Bill provides that facilities have to be provided, or measures taken, by the latest of:
- The date 3 months after notice of the WPS is given;
  - The date from which it is reasonably practicable for the local authority to provide the facility or take the measure;
  - The date 3 months after a traffic regulation order is made if one of them is required for the facility or measure in question; or
  - The date on which operators who are obliged to adhere to service standards when taking advantage of the facility or measure are reasonably to be expected to adhere to the service standards.
56. Under section 116(4B) operators who wish to take advantage of facilities or measures under a WPS will have to adhere to the relevant service standards by the latest of:
- The date 3 months after notice of the WPS is given;
  - The date on which operators are reasonably to be expected to be able to adhere to the service standards;
  - The date from which it is reasonably practicable for the local authority to provide the facility or take the measure which the service standard relates to; or
  - The date 3 months after a traffic regulation order is made if one of them is required for the facility or measure in question.
57. But in either case the local authority and the operators can agree to a different date (Section 116(4A) and (4C)).
58. Section 117 allows a local authority to postpone the date of commencement of a WPS, as well as the commencement of a particular facility, measure or service standard. Before making a postponement, the local authority must consult all operators who would be affected by the postponement (section 117(2)) and notice of the postponement must be given to all affected operators and the Traffic Commissioner within 14 days after the date on which the decision was made (section 117(3)).

### **Section 7 – Effect of a Welsh Partnership Scheme**

59. Section 7 amends section 118 of the 2000 Act which sets out the effect of a WPS. In accordance with section 118, an authority must provide the facilities and measures by a date specified in the scheme, and must continue to do so whilst the scheme is in operation, unless they are unable to do so due to circumstances beyond their control. Similarly, an operator is unable to use the facilities provided by a local authority or stop in a place which is subject to measures under the WPS unless the operator provides a service to the required service standards. A similar exception applies to operators who are unable to comply with service standards due to circumstances beyond their control.
60. Unlike the previous QPS system, operators are not required to give a written undertaking that they will comply with service standards. They are simply obliged to do so if they wish to take advantage of the facilities provided or measures taken under the scheme.

## **Section 8 – Schemes involving existing facilities or measures**

61. Section 8 amends section 119 of the 2000 Act. That section enables regulations to make special provision covering cases where a WPS incorporates facilities or measures which already exist. If the regulations relate to a scheme for an area wholly in Wales the regulations are made by the Welsh Ministers but if they relate to a scheme straddling the Welsh/English border they must be made jointly by the Welsh Ministers and the Secretary of State (see the definition of “appropriate authority” in relation to a WPS inserted into section 162 of the 2000 Act by paragraph 3(9)(b) of the Schedule to the Bill).

## **Section 9 – Variation and revocation of WPS**

62. Section 9 amends sections 120 and 121 of the 2000 Act. Section 120 makes provision for the variation and revocation of WPS schemes. New subsection (1A) of that section makes it clear that a variation can include extending a WPS for a longer period than was originally specified.
63. Section 121 deals with the situation where a WPS is varied so that it no longer includes any part of the area of a local authority or includes part of the area of a local authority that was not previously party to the scheme. Under section 121, various references to local transport authorities (local authorities) in the sections of the 2000 Act dealing with WPSs (and references in paragraph 27(3) of Schedule 9 to the Road Traffic Regulation Act 1984) are to read as including or not including those local authorities as appropriate.
64. Section 121 also deals with cases where a scheme is varied to include facilities or measures that require a traffic regulation order for a road where the Welsh Ministers or the Secretary of State are the traffic regulation authority (see paragraph 42 above) or where the traffic regulation authority wishes to remove scheme facilities or measures from a road and uses powers to revoke the relevant traffic regulation order under paragraph 27 of Schedule 9 to the Road Traffic Regulation Act 1984 along with a variation of the WPS to do so. Again, section 121 provides for various references to be read as including or not including the traffic regulation authority as appropriate.

## **Section 10 – Regulations and guidance about schemes**

65. Section 10 amends sections 122 and 123 of the 2000 Act.
66. Section 122 provides for regulations to make additional provision about WPSs. If the regulations relate to a scheme for an area wholly in Wales the regulations are made by the Welsh Ministers but if they relate to a scheme straddling the Welsh/English border they must be made jointly by the Welsh Ministers and the Secretary of State (see the definition of “appropriate authority” in relation to a WPS inserted into section 162 of the 2000 Act by paragraph 3(9)(b) of the Schedule to the Bill).
67. In particular regulations may be made about which service standards can and cannot be objected to (see new subsections (1)(aa) and (2)). New subsections (3), (3A), (3B) and (4) of section 122 set out in more detail the kind of provision that may be made in



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regulations in relation to objections under section 114C of the 2000 Act. This includes provision about circumstances in which section 114C would not apply, the meaning of “admissible objection” and provision about the determination of a “sufficient number” of objections.

68. Section 123 gives the Welsh Ministers the power to issue guidance about the carrying out of local transport authority functions relating to WPSs.

### **Financial sanctions**

69. If an operator of a local service uses a facility or takes advantage of a measure in a WPS but fails to comply with any service standard relevant to the facility or measure in question, the operator may face financial sanctions imposed by the Traffic Commissioner under section 155 of the 2000 Act (see the amendment made to that section by paragraph 3(6)(a)(ii) of the Schedule to the Bill).
70. The sanctions may take the form of a payment of an amount of penalty, payment of expenditure towards local services or facilities, payment of compensation to passengers or another penalty as may be specified by the Welsh Ministers in an order under section 155 (see section 155(1A)).

### **Section 11 – Registration of local services and traffic commissioner functions**

71. Section 11 amends sections 6 and 6A of the 1985 Act and inserts new sections 6AA, 6AB, 6AC and 6AD into that Act.
72. The amendments to section 6 make it clear that where an application is made for the registration, variation or cancellation of a local service which is covered by a WPS the provisions of new sections 6AA to 6AC apply. The amendments to section 6A ensure that this section does not apply to services covered by a WPS because new sections 6AA to 6AC apply instead.
73. New section 6AA makes provision in relation to registration, variation or cancellation of a service which is subject to registration restrictions under a WPS (see section 114(3A) to (3D) of the 2000 Act referred to at paragraph 39 above). Before accepting an application to register, vary or cancel a service, the Traffic Commissioner must issue a notice to all relevant operators and local authorities, notifying them of the application and of their right to make representations to the Traffic Commissioner about the application.
74. If representations are made, the Traffic Commissioner must consider those representations and decide whether the application would be detrimental to the provision of services under the WPS. The Traffic Commissioner may also take account of any other applications or hold an inquiry to assist with the decision (the Traffic Commissioner has the power to hold inquiries under section 54 of the Public Passenger Vehicles Act 1981). If the Traffic Commissioner decides that accepting the application would be detrimental to the WPS the Commissioner can refuse the application or require it to be amended and re-submitted.

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75. If the application is to register or vary a service, the Traffic Commissioner must also consider whether the operator is likely to comply with the required service standards before accepting the registration or variation, in accordance with section 6AB (see paragraph 77 below).
76. If no representations are made, the Traffic Commissioner must accept the application so long as there is no reason to refuse it under section 6AB. Any appeal in relation to a decision of the Traffic Commissioner under section 6AA must be made to the Upper Tribunal.
77. New section 6AB applies where an application is made to the Traffic Commissioner to register or vary a service which is subject to service standards under a WPS. The Traffic Commissioner must not accept an application if he or she considers that the operator will not be able to provide the service in compliance with the service standard. If the application is accepted the service standard must be recorded in the registration. Section 6AB(6) provides power to make regulations about procedure for giving notice, making representations and determining an application. If the regulations relate to a scheme for an area wholly in Wales the regulations are made by the Welsh Ministers but if they relate to a scheme straddling the Welsh/English border they must be made jointly by the Welsh Ministers and the Secretary of State.
78. New section 6AC empowers the Traffic Commissioner to cancel registration of a service if it is not being provided in accordance with service standards imposed by a WPS. Section 6AC(6) provides a regulation making power to make supplemental provisions about cancellation of services, including introducing conditions that must be satisfied by an operator to avoid cancellation of a service. As with regulations under section 6AB, the regulations may be made by the Welsh Ministers or jointly by the Welsh Ministers and the Secretary of State.
79. Decisions of the Traffic Commissioner under both sections 6AB and 6AC may be appealed to the Upper Tribunal.
80. New section 6AD states that where a further appeal is made to the Court of Appeal from a decision of the Upper Tribunal on an appeal under section 6AA, 6AB or 6AC the operator of the service to which the appeal relates, the local authority or local authorities which made the WPS and the Traffic Commissioner must all be parties to the appeal.

### **Section 12 – Traffic Commissioner’s functions where Welsh partnership scheme is in force**

81. Section 12 inserts new sections 6K to 6O into the 1985 Act. These new sections make provision for certain functions of the Traffic Commissioner to be exercised by a local authority where a WPS is in force.
82. Section 6K applies where a route requirement is in force in a WPS area in respect of local services that have stopping places only within the WPS area (“intra-area services”). In those circumstances the Welsh Ministers (or, in the case of a WPS which straddles the Welsh/English border, either the Welsh Ministers or the Secretary of State) may direct a local authority to take over the Traffic Commissioner’s functions

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that relate to registration, variation and cancellation of any intra-area services. If 2 or more local authorities join together to make a WPS they must decide who is the lead authority for the purposes of exercising the registration functions of the Traffic Commissioner. If a direction is made requiring a local authority to exercise the Traffic Commissioner's functions, the Welsh Ministers (or the Secretary of State) must notify the Traffic Commissioner.

83. New section 6L provides that an authority carrying out the registration functions of the Traffic Commissioner may charge for doing so. Regulations may be made setting out the level of fees, who is to pay them and by when and making provision about payment by instalments (section 6L(2)).
84. New section 6M requires an authority that is carrying out the registration functions of the Traffic Commissioner to keep records of the services that they register, vary or cancel, including those cancelled for non-compliance with service standards. The authority must also keep a record of any registration restrictions and service standards imposed upon a service. The authority is required to make those records public and also to supply particulars of the records to the Traffic Commissioner.
85. New section 6N requires that any appeal which would normally be made to the Upper Tribunal in relation to decisions of the Traffic Commissioner under sections 6AA, 6AB and 6AC, must be made to the Traffic Commissioner, where the local authority is carrying out the Traffic Commissioner's registration functions. A further route of appeal from the Traffic Commissioner's decision on such an appeal is available to the Upper Tribunal (and the decision of the Upper Tribunal on such a further appeal is still appealable to the Court of Appeal).
86. Section 6O contains regulation making powers for the Welsh Ministers (or the Welsh Ministers and the Secretary of State jointly in the case of a WPS straddling the Welsh/English border) to make supplemental provisions about local authorities carrying out the registration functions of the Traffic Commissioner.

## **PART 2, CHAPTER 2 – WELSH FRANCHISING SCHEMES**

### **Introduction**

87. This Part of the Bill makes a number of changes to local authorities' existing powers to make bus franchising schemes in their areas. These changes, which affect sections 124 to 134B of Part 2 of the 2000 Act and sections 6 and 6B of the 1985 Act, include:
- changes to the procedure for making franchising schemes;
  - the removal of the current limit on the duration of a franchising scheme;
  - requirements imposed on the Welsh Ministers to issue guidance to assist local authorities in exercising functions in relation to schemes; and
  - giving a right of appeal to bus operators whose application to register a local service in an area to which a franchising scheme applies is rejected.
88. A bus franchising scheme made under sections 124 to 134B of the 2000 Act allows a local authority (or two or more local authorities acting jointly) to control the provision of local bus services in their area by granting exclusive rights to bus operators to operate on routes within the area to which the scheme applies.
89. In the Welsh context, bus franchising schemes are currently referred to in Part 2 of the 2000 Act as "Quality Contracts Schemes", but they will be renamed as "Welsh franchising schemes" by virtue of amendments made by the Bill. "Quality contracts" (the agreements entered into under a Welsh franchising scheme) will be renamed "local franchise contracts".
90. The change of name is intended to give those affected by the legislation a better understanding of the nature of the schemes in question; the label "quality contracts" does not convey the notion of exclusivity in the provision of services in the same way as the term "franchising".
91. The Bill refers to "Welsh franchising schemes" in order to differentiate between schemes made under Part 2 of the 2000 Act by Welsh local authorities (section 124 to 134B of the 2000 Act) and bus franchising schemes made under Part 2 of the 2000 Act by English authorities for areas in England (see sections 123A to 123X of the 2000 Act, as inserted by the Bus Services Act 2017).
92. This Part also makes amendments to provisions in Part 1 of the 1985 Act which relate to control of the registration of local services in circumstances where a bus franchising scheme is in operation in Wales.

### **Detailed commentary on sections in Part 2, Chapter 2 of the Bill**

#### **Section 13(1) - Welsh franchising schemes**

93. Section 13(1) of the Bill restates section 124 of the 2000 Act, with some modifications, including modifications that reflect the changes in terminology introduced by the Bill.

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94. In general terms, section 124 explains what a Welsh franchising scheme is and imposes requirements in relation to the process to be followed in making a scheme.
95. In its restated form, section 124 will require local authorities to comply with the procedural requirements in new sections 124A to 124D before proceeding to making a scheme.
96. This represents a change in approach from the position in relation to quality contracts schemes, where a local authority is prevented from making a scheme unless:
- it can satisfy itself that the scheme as proposed will achieve certain effects; and
  - the Welsh Ministers have given their consent for the scheme to be made. (A local authority will not require Ministerial consent under the Bill to make a Welsh franchising scheme.)
97. Another change is that the restated section allows local franchise contracts to include terms imposing requirements to be met in relation to the vehicles being used to provide a service. This includes requirements about emissions or types of fuel or power; and would allow local authorities to, for example, require the use of electric buses on particular routes.

### **Section 14(1) - Process for making a Welsh franchising scheme**

98. There are a number of steps that a local authority must complete before it is able to make a Welsh franchising scheme for an area. These are set out in new sections 124A to 124D of the 2000 Act, as inserted by section 14(1) of the Bill. The local authority must:
- prepare an assessment of its proposed scheme;
  - obtain a report on the assessment from an independent auditor;
  - consult on the proposed scheme;
  - consider the consultation responses; and
  - decide whether to make the scheme.

#### **Assessment of proposed scheme: new section 124A**

99. New section 124A requires a local authority to prepare a detailed assessment of the scheme it proposes to operate in its area. The assessment must describe the likely effects of the scheme and compare it to other options for the delivery of local bus services in the area.
100. Section 124A(3) sets out a range of specific issues that the local authority must consider when conducting the assessment. This list is not exhaustive. For example, there may be particular local circumstances which the local authority thinks should be taken into account when conducting the assessment.
101. The Welsh Ministers will be required to issue guidance to local authorities about the preparation of an assessment under section 124A (see section 134A(1)(a), as inserted into the 2000 Act by section 20 of the Bill). The guidance can include information about the methods to be used when assessing a proposed scheme.

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### **Audit of proposed scheme: new section 124B**

102. New section 124B requires a local authority that wishes to proceed with a proposed scheme to obtain a report from an independent auditor on its assessment of the scheme. The report produced under section 124B will inform a local authority's decision about whether to proceed to making a proposed scheme.
103. The auditor's report will assess whether, in the opinion of the auditor, the information relied on by the local authority in considering the affordability and value for money of the scheme was of sufficient quality, whether the analysis of that information in the assessment was of sufficient quality, and whether the local authority had regard to the guidance issued by the Welsh Ministers when preparing the assessment.
104. Subsection (5) defines "auditor", and subsection (6) addresses the issue of an auditor's independence, for the purposes of this section.
105. The Auditor General for Wales is, by virtue of subsections (5)(a) and (6)(a), eligible for appointment as an independent auditor for the purposes of section 124B.
106. Subsection (5)(b) and (6)(b) deal with the eligibility of persons other than the Auditor General for Wales for appointment as independent auditors.
107. A person other than the Auditor General will be eligible for appointment as an auditor under section 124B if both of the following conditions are met in relation to the person.
108. The first condition is that the person is eligible for appointment as a "statutory auditor" in relation to a "statutory audit" in accordance with Chapter 2 of Part 42 of the Companies Act 2006 (subsection (5)(b)) (the Companies Act).
109. The second condition is that requirements relevant to the person's independence from the local authority or local authorities whose assessment is being audited are met (subsection (6)(b)).

### **The first condition**

110. "Statutory auditors" for the purposes of Part 42 of the Companies Act are persons appointed as auditors in relation to particular types of audit required to be carried out by legislation (the audits private companies must carry out under the Companies Act are one example); these audits are listed in section 1210 of the Companies Act or by regulations made under that section.
111. To be eligible for appointment as a statutory auditor, a person must be a member of an approved regulatory body; and meet eligibility criteria set by the body concerned (section 1212 of the Companies Act).

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### The second condition

112. The requirements to be met in terms of a person's independence from a local authority relate to apparent conflicts of interest, where the nature of the relationship between the auditor and the local authority is such that the auditor's impartiality could be brought into question.
113. These requirements, imposed by section 1214(2) and (3) of the Companies Act, ordinarily apply in relation to statutory audits carried out under Part 42 of the Companies Act.
114. Because an assessment under section 124B is not a statutory audit for the purposes of the Companies Act, the independence requirements in section 1214 would not apply without specific provision addressing the point. Subsection (6)(b) makes the connection to section 1214 by treating the assessment process under section 124B as if it were a statutory audit, and treating a local authority as if it were an audited person under Part 42 of the Companies Act; but only for the purpose of determining a person's eligibility for appointment under section 124B.
115. The effect of applying the independence requirements in section 1214 is that if the relationship between a local authority and a person who is eligible for appointment as a statutory auditor is a relationship of a kind described in section 1214(2) and (3) of the Companies Act, the person will be insufficiently independent from the local authority to perform an audit of an assessment under section 124B of the Bill.
116. Section 1214(2)(a), for example, addresses the issue of a person's employment status, so that an officer or employee of an audited person is deemed to lack the independence necessary to carry out a statutory audit.
117. In the context of section 1214(2) as it applies to an assessment of a Welsh franchising scheme, an employee of a local authority who was eligible for appointment as a statutory auditor would be prevented from carrying out an audit of an assessment under section 124B, because of their employment status.

### Notice and consultation requirements: new section 124C

118. New section 124C sets out the process to be followed by a local authority for the purposes of consulting on a proposed franchising scheme, if, following the auditor's report, the local authority still wishes to proceed with making the scheme. This process of consultation involves giving notice to persons in their area of their intention to make a Welsh franchising scheme and consulting on the proposed scheme.
119. Subsection (2) lists the documents which a local authority is required to publish as part of the consultation exercise, which includes a "consultation document" (discussed further at paragraph 120); the assessment of the scheme prepared under section 124A; and the auditor's report of the assessment produced under section 124B.
120. The consultation document must include the details prescribed by subsection (3). These include a description of the area to which the proposed scheme will relate; the

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services that it is proposed will be provided under the scheme; the services that it is proposed will be excluded from the scheme; and the date(s) upon which local franchise contracts will first be entered into.

121. Notice of the local authority's intention to make the scheme must provide a description of the proposed scheme and state where copies of the proposed scheme and consultation documentation can be inspected (subsection (4)).
122. Subsection (5) goes on to prescribe who the local authority must consult.
123. Subsection (6) enables a local authority to modify a proposed scheme following consultation.

Response to consultation: new section 124D

124. New section 124D requires a local authority to publish a report containing its response to the consultation exercise conducted under section 124C, and to publish its decision as to whether or not it intends to make the proposed scheme. The local authority must notify the Traffic Commissioner for Wales of the report.
125. If the local authority decides to make the scheme, the report must also set out how, in conducting the procurement process for the provision of local bus services via local franchise contracts, the local authority will enable small and medium-sized operators to be involved in that process.

### **Section 15(1) – Making of a Welsh franchising scheme**

126. Section 15(1) restates section 127 of the 2000 Act with some modifications.
127. As amended, this section requires local authorities to make the scheme at the same time as they publish the report required by section 124D.
128. A Welsh franchising scheme must specify the area to which it relates (subsection (2)(a)), but it can also specify areas within that area (subsection (3)(a)). These are called “sub-areas”.
129. Subsection (2) also requires that the scheme must specify the local services that are to be provided under local franchise contracts, the date on which local franchise contracts may first be entered into and the minimum period (which must be at least six months – see subsection (4)) that is to expire between the making of a local franchise contract and services being provided under the contract. The Welsh Ministers may make regulations changing this minimum period of time (subsection (9)).
130. If a scheme specifies sub-areas, then in accordance with subsection (3) the scheme may specify for each sub-area the date that local franchise contracts for that area may be entered into, and for each sub-area, the minimum period that has to expire between making the contract and providing the service (again, this must be at least six months – see subsection (4)). This means that services can be provided in different sub-areas from different dates.



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131. As under a Welsh franchising scheme operators have exclusive rights to operate local services, Welsh franchising schemes are incompatible with WPSs. As such, if a Welsh franchising scheme relates to an area to which a WPS also relates, if the wPS relates only to the area or part of the area the franchising scheme relates, the franchising scheme must revoke the wPS. In any other case, the franchising scheme must vary the WPS so that the scheme no longer applies in the same area to which the Welsh franchising scheme applies (subsection 6).
132. Restated section 127 does not include a maximum period for which a Welsh franchise scheme is to remain in operation. As a consequence of this, section 131A to 131E of the 2000 Act (which used to set out the process for continuing a quality contracts scheme beyond the 10 year maximum duration) have been omitted by section 17(1) of the Bill.
133. The Bill does not specify any details about how local authorities should tender for contracts under schemes – this is left to the local authorities to manage.

### **Section 15(2) – Postponement of local franchise contracts**

134. Section 15(2) amends section 128 of the 2000 Act.
135. Section 128(1), as amended, allows a local authority to postpone the date a local franchise contract may first be entered into by up to six months. But the local authority may do this only once. This may be necessary, for example, where during the course of the procurement exercise it becomes apparent that the procurement period may need to be extended.
136. Another change this section makes is that local authorities are now required to give reasons for their decision to postpone the date from which a local franchise contract may be entered into.

### **Section 16 – Effect of local franchise contracts**

#### **Section 16(1) – effect of local franchise contracts: registration requirements and provision of services**

137. Section 16(1) restates section 129 of the 2000 Act with modifications.
138. In general terms, it deals with the effect of a Welsh franchising scheme, once it is in effect; in particular, section 129 provides that local services may not be provided unless the services are:
- provided under a local franchise contract;
  - interim services (sections 132C and 132D);
  - excluded from the remit of the scheme; or
  - registered under section 6 of the 1985 Act in accordance with the provisions of section 6B of that Act.

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139. In its previous form, section 129(1)(a) of the 2000 Act provided that sections 6 to 9 of the 1985 Act do not have effect in relation to the area to which a quality contracts scheme related. That is, a service that was permitted to operate in a scheme area did not need to be registered. (But section 129 did not apply to local services excluded from a quality contracts scheme and any local service which could operate by virtue of section 6B – an operator would be required to register both these types of service under section 6 of the 1985 Act).
140. Section 129(1)(a) has not been restated, but the effect of section 129(1)(a) has been maintained by the Bill by amendments made to section 6 of the 1985 Act. New section 6(2ZA) of the 1985 Act (as inserted by section 16(4)) provides that a service that is provided under a local franchise contract or an interim service is not required to be registered under section 6 of the 1985 Act.
141. Local services which are excluded from a Welsh franchising scheme continue to be required to be registered (as subsection (2ZA) does not exclude them from the registration requirement set out in section 6 of the 1985 Act). Similarly local services which may operate by virtue of section 6B of the 1985 Act continue to be required to be registered.

### **Section 16(2) – Local franchise contracts**

142. Section 16(2) restates section 130 of the 2000 Act with modifications.
143. As amended, this section sets out restrictions as to who a local authority may make a local franchise contract with; addresses the issue of when services under the contract can be provided; and makes provision about the notification process a local authority must follow after entering into a contract.
144. Another change is the removal of the limit on the duration of contracts that was in section 130 of the 2000 Act. In its restated form, section 130 will allow a local authority to determine the duration of a local franchise contract, subject to any relevant requirements of procurement law.
145. In accordance with this section, as amended, an operator cannot begin to deliver a service until the expiry of the period specified in the scheme (which must be at least six months) that must expire after the making of the contract. A contract can specify that services can be provided from any date, provided that that date is after the minimum period specified by the scheme.
146. Once a contract is entered into, this section as amended provides that a local authority must, in addition to notifying the Traffic Commissioner of the contract (a requirement in the current version of section 130), notify any operators of local services who they think are likely to be affected by the contract. This is likely to be operators who are providing services in the area at the time a Welsh franchise scheme is made but who have not been awarded any local franchise contracts under the scheme.
147. A notice of the granting of a contract must set out the services to be provided under the contract and the length of the contract. This notifies the Traffic Commissioner of

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the date from which relevant services will no longer need to be registered under sections 6 to 9 of the 1985 Act.

### **Sections 16(3) – Exceptions to Section 130**

148. Section 16(3) restates section 131 of the 2000 Act with modifications.
149. As amended, this section provides that it is not necessary to wait for the period of 6 months (or longer) to expire from the date of making a local franchise contract and services being delivered under that contract in certain circumstances.
150. This may be necessary, for example, in order to maintain a service where an operator goes out of business, or to meet a public transport requirement that has arisen unexpectedly and which needs to be met without delay.
151. However, the decision to bring forward the date for the delivery of services has to be made before or at the time the local franchise contract is entered into.

### **Section 16(4) – Amendments to the 1985 Act: Registration of local services**

152. Section 16(4) of the Bill amends section 6 of the 1985 Act. As discussed above, it provides that where a Welsh franchising scheme has been made, a local service provided under a local franchise contract or as an interim service does not need to be registered under section 6. This maintains the effect of section 129(1)(a) of the 2000 Act before it was amended by this Bill.
153. Services which are excluded from a Welsh franchising scheme will need to be registered under section 6 (as was previously the case), as would any service permitted to be provided under section 6B.
154. Section 16(5) of the Bill amends section 6B of the 1985 Act. Section 6B of the 1985 Act allows certain local services, other than those provided under local franchise contracts or those excepted from a Welsh franchise scheme, to operate in an area covered by a Welsh franchising scheme.
155. The main change that the Bill makes to this section is to enable an operator to appeal to the Upper Tribunal if their application to register a service (whether they are applying to register the service for the first time or they are applying to vary a service already registered but the effect of the variation is that the service will be provided in an area to which a Welsh franchising scheme applies) under section 6B is refused by the Traffic Commissioner.
156. An application to register a service by virtue of section 6B must be refused by the Traffic Commissioner if, within a given amount of time, the Commissioner does not receive a “clearance certificate” from the local authority or local authorities which made the Welsh franchising scheme for the area within which the operator is proposing to provide a local service. A “clearance certificate” is the means by which a local authority notifies the Traffic Commissioner of their decision that they do not consider that the proposed service or the proposed service as varied will have an adverse effect on services provided under local franchise contracts.

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157. Section 16(6) of the Bill inserts a new section 6BA into the 1985 Act. This section enables local authorities to apply to the Traffic Commissioner to cancel or vary a service registered in accordance with section 6B where it considers the continued registration of that service would have an adverse effect on the services provided under the local franchise contracts. The Traffic Commissioner must accept any such application and cancel or vary the service accordingly. The Traffic Commissioner must notify the operator of the cancellation or variation of the service, and the operator has the right to appeal to the Upper Tribunal in respect of a decision to vary or cancel a service.
158. Section 6BA(6) gives the Welsh Ministers a power to make regulations setting out further provision as to how section 6BA is to operate. Such provision can address matters such as when a cancellation or variation of service is to take effect.

### **Section 17 – Duration, review, variation and revocation of schemes**

#### **Section 17 (2) – Review of the scheme**

159. Section 17(2) inserts a new Section 131F into the 2000 Act.
160. Section 131F places a duty on local authorities that have made a Welsh franchising scheme to keep the scheme under review. A local authority is required to review the effectiveness of its scheme at least once every three years, including whether the scheme continues to contribute to the policies mentioned in section 124A(3). The local authority must prepare and publish a report of each review it undertakes.

#### **Section 17 (3) – Variation of the scheme**

161. Section 17(3) restates, with modifications, those parts of section 132 of the 2000 Act which relate to varying schemes. In general terms, the section sets out the process a local authority must follow to vary a scheme. In its previous form, section 132 imposed constraints on local authorities in terms of the nature of the variations that could be made to schemes; these constraints have not been included in section 132 in its restated form.
162. The process for varying a scheme is substantially the same process as that which must be followed when making a scheme in the first instance except that:
- the procedure may be modified or excluded by any regulations made under section 133; and
  - sections 124A (assessment of proposed scheme), 124B (audit of assessment), 124C(3)(i) (consultation document to include a summary of the assessment under section 124B) and 124D(2) (requirement to state how small and medium-sized operators will be involved in the procurement process) do not apply.
163. But where the variation would involve adding an area to the scheme, the process the local authority must follow includes the steps set out in sections 124A, 124B and 124C(3)(i) (subsection 8).

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164. Provision within the previous version of section 132 requiring the consent of the Welsh Ministers to certain types of variation has been removed. Sections 132A and 132B of the 2000 Act have also been omitted in consequence of the removal of a requirement for Ministerial consent.
165. Once a local authority decides to vary a scheme, it must publish a notice advising when any variations to the scheme are to have effect; section 132(4) provides that this date must be at least 6 months after the notice of the decision to vary the scheme is published.

### **Section 17(4) – Revocation of scheme**

166. Section 132ZA restates, with modifications, those parts of section 132 of the 2000 Act which made provision allowing local authorities to revoke schemes.
167. Previously, a quality contract scheme could be revoked if the preconditions that were required to be satisfied under section 124 of the 2000 Act were no longer satisfied. As section 124 no longer includes such preconditions, a Welsh franchising scheme can instead be revoked if the local authority is satisfied that:
- there would be better local services in the area to which the scheme relates if the scheme were not operating;
  - continuing to operate the scheme would likely cause financial difficulties for the authority; or
  - the burdens of the scheme are likely to outweigh its benefits.
168. The procedure for revoking the scheme is largely the same as that for making the scheme in the first instance, except that the procedure may be modified or excluded by regulations and that section 124D(2) does not apply.

### **Section 18 – Interim and replacement services**

#### **Section 18(1) – Power of local authorities to provide services in exceptional circumstances**

169. Section 18(1) makes amendments to section 132C of the 2000 Act. In general terms, section 132C permits interim services to be provided where a local authority has entered into a local franchise contract with an operator for a specified period, but the operator fails to provide the contracted service before the end of the contract period.
170. In its amended form, this section will allow local authorities to provide a local service instead of the service no longer being provided, or to secure the provision of interim services by any other person, including from another local authority. See part 3 of these notes for discussion about local authorities' powers to provide local services under section 65A of the 1985 Act.

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### **Section 18(2) – Period for which interim services may be provided**

171. Section 18(2) amends section 132D of the 2000 Act. In general terms, this section prescribes the period of time for which interim services can be provided. The other amendments to this section reflect the change of name of the scheme.

### **Section 19 and 20 – General provisions**

172. Section 19(1) restates section 133 of the 2000 Act. It provides the Welsh Ministers with a power to make regulations to make further provision about Welsh franchising schemes.
173. Section 19(2) amends section 134 of the 2000 Act and provides Welsh Ministers with the power to make transitional provisions in connection with making, varying or revoking Welsh franchising schemes.
174. Section 20 restates section 134A. Subsection (1) requires Welsh Ministers to issue guidance concerning the preparation by local authorities of assessments under section 124A and guidance concerning the matters to be taken into account by local authorities when selecting an independent auditor under 124B. Subsection (2) provides that the Welsh Ministers may also issue guidance in relation to the performance by local authorities of their functions in relation to schemes.

### **Paragraph 3 of the Schedule – Amendments relating to TUPE**

175. Paragraph 3(4) of the Schedule makes amendments to section 134B of the 2000 Act. This section provides for the Transfer of Undertakings (Protection of Employment) Regulations 2006 (“TUPE Regulations”) to apply when staff are transferred as a result of local franchise contracts.
176. Paragraph 3(4)(c) of the Schedule amends section 134B(6) so that the Welsh Ministers (instead of the Secretary of State) may make regulations supplementing the provisions made by the TUPE section.
177. Similarly, paragraph 3(4)(d) amends subsection (9) so that the Welsh Ministers must exercise that power so that certain pension rights and protections apply where staff are being transferred.
178. The other amendments to this section reflect the change in name of the scheme.

**PART 2, CHAPTER 3 – POWER TO OBTAIN INFORMATION IN CONNECTION WITH WELSH PARTNERSHIP AND WELSH FRANCHISING SCHEMES**

179. Section 21 of the Bill inserts a new section 143C into the 2000 Act.
180. The section provides a local authority with the ability to require operators of local services to provide it with “relevant information” about services provided by the operator in the local authority’s area, for the purposes of a local authority’s functions in relation to WPSs or Welsh franchising schemes.
181. The section also permits a local authority to impose requirements in relation to the way in which information required by the local authority is to be provided, and in relation to the time within which information must be provided.
182. For example, a local authority could use the powers in this section to require information for the purposes of a proposal to make a Welsh franchising scheme, or where a local authority was considering whether to vary an existing franchising scheme.
183. What constitutes “relevant information” is set out in subsection (4) and (5). The Welsh Ministers have a power to specify further types of information in regulations.
184. A local authority will only be able to require information under this section in relation to the 5-year period that precedes the date that they required the information (subsection (6)).
185. If it appears to a local authority that has required information under section 143C that an operator has failed to take all reasonable steps to comply with any requirement imposed in relation to the information, subsection (8) of section 143C requires the local authority to inform the Traffic Commissioner. Amendments are made by the Bill to section 155 of the 2000 Act to enable the Traffic Commissioner to take enforcement action against the operator concerned, for example, the Traffic Commissioner can impose a financial penalty upon the operator.
186. Information received under this section may be used by the local authority as described by Section 143C(9). The local authority is able to share this information with persons listed in subsection (10), namely: other local authorities; persons providing services to a local authority and any person carrying out an audit of an assessment of a proposed Welsh franchising scheme. However, this onward sharing of service information with other persons is solely for use in connection with the same WPS or franchising scheme.
187. Section 143C(11) addresses the effect on information obtained under section 143C of requirements imposed upon local authorities to publish information in connection with proposals to make WPSs or franchising schemes.

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188. These requirements are imposed by section 115 of the 2000 Act in relation to a WPS, and sections 124C and 124D of the 2000 Act in relation to Welsh franchising schemes.
189. A local authority will not be required, by virtue of sections 115, 124C or 124D of the 2000 Act, to publish information obtained under section 143C if, in circumstances where the information was requested under the Freedom of Information Act 2000 or the Environmental Information Regulations 2004, the authority could refuse to disclose the information.



## **PART 3 – PROVISION OF LOCAL BUS SERVICES BY LOCAL AUTHORITIES**

### **Summary of the amendments**

190. Part 3 of the Bill amends Part 4 of the the 1985 Act to add a new section 65A to Part 4 of the 1985 Act (Section 22 (2) of the Bill); and makes two minor amendments to Part 4 of the Act, in consequence of section 65A (see Section 22 (3) and (4) of the Bill).
191. Section 65A gives local authorities in Wales a power to provide local bus services; either directly or through a company.
192. Section 22 (3) and (4) of the Bill amends sections 63 and 66 of the 1985 Act, and are necessary to make adjustments to the operation of those sections of the 1985 Act, as a consequence of the new power for local authorities to provide local bus services.
193. Paragraphs 5 to 10 of this note provide background information about the 1985 Act and paragraphs 11 to 30 explain the amendments being made by Part 3 of the Bill in greater detail.

### **Legislative background**

194. The 1985 Act privatised (with some exceptions) the provision of bus services in Wales (the Act also applies to England and Scotland).

As part of the reform introduced by the 1985 Act, Part 4 of that Act included provision preventing local authorities from providing bus services; this general rule, in section 66(1) of the 1985 Act, is subject to limited exceptions.

195. Part 4 of the 1985 Act restricted local authority involvement in the market for bus services to cases where the private sector was failing to meet the public transport needs of an authority's area.
196. In such cases, section 63 of the 1985 Act requires action to be taken by a local authority to secure the provision by third parties of such public transport services as the authority considers appropriate. Services secured under section 63 are commonly referred to as “socially desirable services”, in recognition of the important function within local authority areas of public transport services that may not be commercially viable.
197. Section 63 of the 1985 Act often requires local authorities to conduct tendering exercises, to ensure the provision of local bus services on particular routes within their areas.
198. Section 63 authorises the use of subsidies by authorities for the purpose of securing public transport services, including local bus services.
199. Some local authorities have experienced difficulties in securing and maintaining the provision of socially desirable services under section 63, even where subsidies are offered as an incentive to potential providers of services. This can mean that local

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authorities pay a premium to secure socially desirable services or are unable to secure the provision of a service at a reasonable cost.

200. Note also that as part of that move to an open-market, the 1985 Act provided transitional provisions under which services which were being provided by local authorities were moved over to companies owned by them. Over time, these companies were largely sold-off. In Wales, only two of these companies remain in existence today: Cardiff City Transport Services Limited (operating as “Cardiff Bus”) and Newport Transport Limited (operating as “Newport Bus”).

### **Section 65A**

201. Section 65A(1) gives local authorities the power to provide local bus services, including through a company.
202. The power will allow a local authority to provide local services anywhere in Wales. The power also permits the provision of a service across the border in England, provided the service in question includes one or more stopping places in Wales.
203. Therefore a service provided by a local authority under this section could be provided:
- exclusively in the area of one or more other local authorities;
  - exclusively within the authority’s own area; or
  - within the authority’s own area and the area or areas of another local authority or authorities.
204. Where two or more local authorities wish to provide services under this section jointly, the relevant statutory provision authorising arrangements for the joint-exercise of functions is section 101 of the Local Government Act 1972.
205. Section 65A will allow local authorities to provide socially desirable local bus services within their areas, as an alternative to securing the provision of a public transport service by a third party. It will be for authorities to determine whether this would be a more effective option to meet any unmet public transport needs they identify in their areas.
206. Section 65A will also allow local services to be provided on a commercial basis, in competition with other providers of bus services.
207. This would, for example, allow local authorities to:
- compete for contracts to provide socially desirable services in the area of another local authority, where the other local authority was seeking to secure the provision of a local service in its area; and/or
  - compete on commercial routes where there is no subsidy to the bus operator.
208. A local authority seeking to provide services under section 65A will, in doing so, be subject to any relevant requirements of competition law (including procurement rules and state aid rules). Competition law controls operate to prevent public authorities

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from benefitting from any unfair economic advantage over other operators in a market place.

209. A local authority seeking to provide services under section 65A will also be subject to the same regulatory requirements relevant to the provision of local bus services as any other prospective provider of services.
210. This means, for example, that any vehicles an authority, or a company connected with an authority, uses to provide a local service will have to be operated through a valid Public Service Vehicle (“PSV”) operators’ licence; and any service an authority or connected company proposes to provide will have to be registered with a Traffic Commissioner, in accordance with regulations made under Part 1 of the 1985 Act. (The requirement to hold a valid PSV operators’ licence is imposed by the Public Passenger Vehicles Act 1981, and licences are granted by a Traffic Commissioner. A PSV operators’ licence regulates the fitness of operators to provide services and requires that vehicles operated under it have to meet certain safety criteria.)
211. It will be for a local authority to determine whether to provide services under this section through a company, or to do so “in-house”. Where a local authority proposes to provide services under section 65A through a company, it could do so by using an existing company it controls; by acquiring a company; or by establishing a new company. The relevant statutory basis for doing any of these things would be section 111 of the Local Government Act 1972, a power that, among other things, allows authorities to make provision that is incidental to the exercise of other functions.
212. Section 65A(6) requires local authorities to have regard to guidance issued by the Welsh Ministers in relation to the functions conferred by section 65A. Guidance is likely to set out:
- Factors local authorities should consider when deciding whether to operate through a company or to do so “in-house”; and
  - factors for local authorities to take into account for the purposes of complying with requirements of competition law.

### The consequential amendments

213. Subsection (3) of this section of the Bill inserts a new subsection (5B) into section 63 of the 1985 Act. This amendment relates to the test that must be met before a local authority is allowed to offer a subsidy to secure a socially desirable service under section 63.
214. To offer a subsidy under section 63, a local authority must be satisfied that the service in question would not be provided, or would not be provided to a particular standard, without subsidy.
215. This consequential amendment has been included because the introduction of a power for local authorities to provide local services could distort the test for offering subsidy, by, for example, making it impossible for authorities to satisfy themselves that a service would not be provided without subsidy, in circumstances where the authority was already operating a local service under section 65A but wished to stop offering the

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service. This is on the basis that it might always be *possible* for the local authority to continue to provide the service.

216. To avoid this potential problem, subsection (5B) allows a local authority to disregard the provision of a service, or the possibility of a service being provided, under section 65A when applying the test for applying a subsidy. This will allow local authorities to continue to secure socially desirable services using subsidies, if necessary, as an alternative to offering a service itself.
217. Subsection (4) of this section amends section 66(1): the general restriction that prevents local authorities from providing bus services. The amendment adds section 65A to the list of exceptions from the general restriction.

**PART 4, CHAPTER 1 – VARIATION OR CANCELLATION OF LOCAL BUS SERVICES IN WALES: PROVISION OF SERVICE INFORMATION IN RELATION TO A LOCAL AUTHORITY’S FUNCTIONS UNDER SECTION 63 OF THE TRANSPORT ACT 1985**

**Summary of amendments**

218. Section 23 of the Bill amends the 1985 Act to add three new sections to the Act in connection with circumstances where an operator wishes to vary or cancel one of its registered services:
- section 6BB enables local authorities to require operators applying to vary or cancel registered services to provide specified information about those services;
  - section 6BC sets out the persons to whom a local authority may disclose information that it has received under section 6BB and makes provision limiting, and in some circumstances, prohibiting, any other disclosure of that information;
  - section 6BD gives the Welsh Ministers the power to make supplemental provision in regulations about sections 6BB and 6BC.
219. The power to obtain and share information in connection with a bus service that is proposed to be varied or cancelled is designed to assist local authorities in considering what action may be taken in the event that the variation or cancellation of the service results in a shortfall in local bus service provision.

**Legislative Background**

220. Section 6(2) of the 1985 Act requires a local service to be registered with the Traffic Commissioner before it can be operated. (There are certain exceptions to that requirement, such as services provided under a Welsh franchising scheme or anything excluded under regulations<sup>38</sup>). Once a service is registered, the operator may apply under section 6 for the service to be varied or cancelled (because failure to operate a registered service may trigger financial penalties under section 155(1)(a) of the 2000 Act.) Regulations under section 6 of the 1985 Act may also make additional provision about the registration, variation or cancellation of services, in particular the regulations require a copy of any application for registration, variation or cancellation to be sent to every local authority area in whose area the bus service in question stops<sup>39</sup>.
221. Under Section 63 of the 1985 Act local authorities are required to take action to secure the provision by third parties of such public transport services as the authority considers appropriate. Services secured under section 63 are commonly referred to as “socially desirable services. The variation or cancellation of a local service may (in the view of a local authority) result in a public transport requirement no longer being met by a commercial bus operator and the local authority will wish

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<sup>38</sup> For example, certain services which are excursions or tours are not registered by virtue of Regulation 10 of The Public Service Vehicles (Registration of Local Services) Regulations 1986 (S.I. 1986/1671).

<sup>39</sup> See Regulation 3(4) of The Public Service Vehicles (Registration of Local Services) Regulations 1986 (S.I. 1986/1671)

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to consider the options available to it for securing services to meet that requirement. For example –

- The local authority may utilise its power under section 63(5) to enter into agreements to provide service subsidies so that a service is provided which meets the public transport requirement;
- Another operator may seek to register a service or vary an existing service;
- The local authority may consider operating a service in accordance with the new powers set out in Part 3 of the Bill.

222. The changes made by section 23 will require an operator who proposes to vary or cancel a service to provide to a local authority information relating to the following:

- the number of passengers using the service;
- the journeys made;
- fares paid; and,
- revenue obtained from the service.

223. This information will assist the authority's consideration of the options and onward disclosure of that information may facilitate the provision of new or revised services by other operators.

### **Section 6BB Variation or cancellation of registration: provision of information about local services in Wales**

224. Subsections (1) and (2) of new subsection 6BB provide that, where an operator notifies a local authority of its intention to vary or cancel a registered local service, the authority has the power to require the operator to provide it with certain information about the service.

225. The information that may be required must be information of a kind prescribed in regulations made by the Welsh Ministers. But in accordance with subsection (3), the type of information that can be prescribed in those regulations will be limited to:

- information about passenger numbers, journeys and fares (referred to in this part of the explanatory notes as "service information"); and
- information about the revenue obtained from operating the service in question (referred to in this part of the explanatory notes as "revenue information").

226. Subsection (4) restricts an authority so that it can only require the information in connection with its functions under section 63 of the 1985 Act (see above), and it can only require information for a period of 3 years prior to the date the authority imposes the requirement to provide the information.

227. If the authority requires revenue information, subsection (6) allows an operator, at the same time as the operator provides the information, to request that the authority does not disclose that information on the basis that to do so would harm the commercial interests of the operator. But a request for such non-disclosure has to be accompanied by supporting evidence that the disclosure would indeed

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harm the operator's commercial interests (subsection (6)(b)). (Section 6BC(4) and (5), discussed below, deal with a local authority's response to such a request).

### **Section 6BC Disclosure of information provided under section 6BB etc.**

228. Section 6BC sets out the circumstances in which information obtained by an authority under section 6BB can be disclosed by the authority to other persons. Different rules apply to the onward disclosure of service information and revenue information. The section also makes provision about what a person to whom the information is disclosed may (or may not) do with it.
229. Subsection (2) deals with the disclosure of service information, and permits the local authority that received this information from an operator to share it with:
- any persons who the authority thinks may seek to provide a service replacing or supplementing the service that is being varied or cancelled;
  - another local authority in Wales in whose area the service being varied or cancelled has a stopping place; and
  - any other person specified in regulations that may be made by the Welsh Ministers (note that such regulations may also specify the purposes for which the information may be disclosed to persons specified in the regulations).
230. Subsection (3) deals with the disclosure of revenue information, and permits the local authority that received that information from an operator to share it with:
- any persons who the authority thinks may seek to provide a service replacing or supplementing the service that is being varied or cancelled; and
  - another local authority in Wales in whose area the service being varied or cancelled has a stopping place.
231. There is no power to make regulations permitting disclosure of revenue information to any other person.
232. Subsections (4) and (5) deal with the situation where an operator requests (under section 6BB(6)) for the revenue information provided to a local authority not to be disclosed if the operator considers that its disclosure is likely to cause damage to the operator's commercial interests. If, on considering the evidence provided by the operator in support of its application, the authority agrees with the operator, the authority cannot disclose the information. The authority is also required to notify the operator of its decision to either disclose or not.
233. If a local authority does disclose revenue information (whether or not there was any request not to do so), it can only disclose the information as an aggregated annual figure (subsection (6)).
234. Subsections (8) to (10) deal with the use and further onward disclosure of information that has been disclosed by the local authority that initially received the information from an operator (authority A) to another local authority in whose area the service being varied or cancelled has a stopping place (authority B).

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235. In effect authority B may only do what authority A could do with the information. Onward disclosure by authority B has to be authorised in accordance with subsections (9) and (10). Of course, authority B is not required to consider any request from an operator not to disclose revenue information on grounds of damage to commercial interests because, if the operator considered that disclosure would cause such damage, they would have requested that authority A did not disclose it and for authority B to have received the information, authority A must have decided that the disclosure was unlikely to be damaging.
236. Subsection (11) prohibits disclosure of information by any person who has received it under this section other than the local authority that initially received the information or another local authority in whose area the service being varied or cancelled has a stopping place.
237. It is an offence for any person who receives information in accordance with section 6BC to disclose it in contravention of the provisions of this section unless they have a reasonable excuse for doing so. (For example, it would be an offence for a local authority that initially received revenue information to disclose it to a person who was not another local authority in whose area the service being varied or cancelled had a stopping place or a person who the authority thinks may provide a replacement or supplemental service). Any person who is guilty of such an offence will be liable on summary conviction to a fine (subsection (13)).

### **Section 6BD Power for Welsh ministers to make supplemental provision about section 6BB and 6BC**

238. This section enables the Welsh Ministers to make regulations to provide further details about the provisions in sections 6BB and 6BC or to make provision adding to what is in those sections. For example, these regulations may provide for exceptions where a local authority would not be permitted to require information under section 6BB. This could include situations where the variation proposed by an operator were to add stops or increase the frequency of a service. In such circumstances it would be difficult to envisage the local authority's duties under section 63 of the 1985 Act being engaged and hence it would be inappropriate (and unnecessary) to require information about the bus service in question.
239. Regulations made under this section may also provide that a Traffic Commissioner is not to accept an application to vary or cancel the registration of a local bus service if the operator fails to comply with a requirement from a local authority to provide information under section 6BB.

### **Sanctions**

240. If an operator fails to provide information in response to a request from a local authority under section 6BB, a Traffic Commissioner may impose financial penalties on the operator using the commissioner's power under section 155 of the Transport Act 2000 (see the amendment to that section made by paragraph 3(6)(a)(i) of the Schedule to the Bill).



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**PART 4, CHAPTER 2 POWER TO REQUIRE PROVISION OF INFORMATION ABOUT WELSH BUS SERVICES**

**Summary of the amendment**

241. Section of the Bill amends the 2000 Act to add a new section 141B to the Act.
242. Section 141B will allow the Welsh Ministers by regulations to require certain information, relevant to the provision of local services in Wales, to be provided to persons specified by the regulations, for the purpose of making information available to passengers using those services.

**Legislative background**

243. “Registration” in the context of local bus services means registered under section 6 of the 1985 Act. Persons wishing to provide local services are required by section 6 to register those services, in accordance with that section and regulations made under it.
244. Requiring an operator to provide certain information about local bus services will facilitate information about local bus services being made available to the public.

**Section 141B in Detail**

245. Section 141B will allow the Welsh Ministers by regulations to require providers or potential providers of local services in Wales, local authorities, and the Traffic Commissioner – the persons mentioned in subsection (1)(a) to (d) of section 141B – to provide prescribed information relating to those services to persons prescribed by the regulations (but subsection (6) of section 141B imposes limits on the persons to whom information can be provided).
246. “Prescribed” in this context means prescribed by the regulations, and it is likely the regulations will prescribe different information sharing requirements in relation to different categories of person.
247. Any information required by the regulations must be information of a type described by section 141B(3), which describes the following information:
- information about bus routes, stopping places, timetables or bus fares and tickets;
  - information about any changes or proposed changes to these matters; and
  - information about the operation of the services, including “real-time” or “live” information about the numbers of passengers using services and the location of buses on a particular bus route.
248. The regulations could, for example, allow the Welsh Ministers to require providers of local services to provide information to persons operating websites providing up-to-date travel information for members of the public; or to persons operating mobile phone applications that offer live updates on the current status of buses servicing particular routes.

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249. Failure to comply with a requirement to provide information under section 141B may result in a financial penalty being imposed by the Traffic Commissioner under section 155 of the 2000 Act (see the amendment made by paragraph 2(6)(a)(iii) of the Schedule to the Bill).
250. Where the information is required from a person who is applying for the registration, variation or cancellation of a local service (subsection (1)(a) of section 141B), the Welsh Ministers may make regulations under section 6(9)(e) of the 1985 Act requiring the Traffic Commissioner to refuse the application for registration, variation or cancellation unless the information has been provided under section 141B of the 2000 Act.

## Annex 2

### Index of Standing Order requirements

Table 1

Standing order		Section	pages/ paragraphs
26.6(i)	Statement that the provisions of the Bill would be within the legislative competence of the Assembly	Chapter 2 - Member's declaration	Para 2.1
26.6(ii)	Set out the policy objectives of the Bill	Chapter 3 – Purpose and intended effect of the legislation	Pages 8-22 Paras 3.3.1 to 3.5.27
26.6(iii)	Set out whether alternative ways of achieving the policy objectives were considered and, if so, why the approach taken in the Bill was adopted	Chapter 7 – Regulatory Impact Assessment Options	Pages 5-7 Paras 7.1.1. to 7.2.4
26.6(iv)	Set out the consultation, if any, which was undertaken on: (a) the policy objectives of the Bill and the ways of meeting them;  (b) the detail of the Bill, and  (c) a draft Bill, either in full or in part (and if in part, which parts)	Chapter 4 – Consultation	Pages 23-28  Paras 4.1.1 to 4.1.13
26.6(v)	Set out a summary of the outcome of that consultation, including how and why any draft Bill has been amended	Chapter 4 – Consultation	Pages 24-29

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Standing order		Section	pages/ paragraphs
			Paras 4.2.1 to 4.3.1
26.6(vi)	If the Bill, or part of the Bill, was not previously published as a draft, state the reasons for that decision	The requirement of Standing Order 26.6(vi) does not apply to this Bill as a consultation was undertaken on a draft Bill	
26.6(vii)	Summarise objectively what each of the provisions of the Bill is intended to do (to the extent that it requires explanation or comment) and give other information necessary to explain the effect of the Bill	Annex 1 – Explanatory Notes	Annex 1
26.6(viii)	Set out the best estimates of:  (a) the gross administrative, compliance and other costs to which the provisions of the Bill would give rise;  (b) the administrative savings arising from the Bill;  (c) net administrative costs of the Bill's provisions;  (d) the timescales over which such costs and savings would be expected to arise; and  (e) on whom the costs would fall	Chapter 6 – Regulatory Impact Assessment summary	Pages 1-4  Table A
26.6(ix)	Any environmental and social benefits and dis-benefits arising from the Bill that cannot be quantified financially	Chapter 8 – Regulatory Impact Assessment Costs and Benefits	

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Standing order		Section	pages/ paragraphs
26.6(x)	<p>Where the Bill contains any provision conferring power to make subordinate legislation, set out, in relation to each such provision:</p> <p style="padding-left: 40px;">(a) the person upon whom, or the body upon which, the power is conferred and the form in which the power is to be exercised;</p> <p style="padding-left: 40px;">(b) why it is considered appropriate to delegate the power; and</p> <p style="padding-left: 40px;">(c) the Assembly procedure (if any) to which the subordinate legislation made or to be made in the exercise of the power is to be subject, and why it was considered appropriate to make it subject to that procedure (and not to make it subject to any other procedure);</p>	Chapter 5 – Power to make subordinate legislation	<p>Pages 30-53</p> <p>Tables 5.1 and 5.2</p>
26.6(xi)	Where the Bill contains any provision charging expenditure on the Welsh Consolidated Fund, incorporate a report of the Auditor General setting out his or her views on whether the charge is appropriate	The requirement of Standing Order 26.6(xi) does not apply to this Bill	
26.6(xii)	Set out the potential impact (if any) on the justice system in England and Wales of the provisions of the Bill (a “justice impact assessment”), in accordance with section 110A of the Act.	Chapter 9 – Impact Assessments	Paras 9.11.1 to 9.11.6

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Standing order		Section	pages/ paragraphs
26.6B	Where provisions of the Bill are derived from existing primary legislation, whether for the purposes of amendment or consolidation, the Explanatory Memorandum must be accompanied by a table of derivations that explain clearly how the Bill relates to the existing legal framework.	The requirement in Standing Order 26.6B for a Table of Derivations is not applicable to this Bill as the Bill is a standalone piece of legislation and does not derive from existing primary legislation for the purposes of amendment or consolidation.	
26.6C	Where the Bill proposes to significantly amend existing primary legislation, the Explanatory Memorandum must be accompanied by a schedule setting out the wording of existing legislation amended by the Bill, and setting out clearly how that wording is amended by the Bill.	Annex 3 – Schedule of Amendments	Annex 3

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### **Annex 3 – Schedule of Amendments**

#### **AMENDMENTS TO BE MADE BY THE BUS SERVICES (WALES) BILL**

In accordance with Standing Order 26.6C, the following schedule sets out where the Bus Services (Wales) Bill (“the Bill”) proposes to significantly amend existing primary legislation. It sets out the wording of the existing legislation and how that wording is amended by the Bill. It is intended to show how the provisions of the Transport Act 2000 (c. 38) (“the 2000 Act”) and the Transport Act 1985 (c. 67) (“the 1985 Act”), as they applied in relation to Wales on 13 February 2020], would look as amended by the Bill (if enacted) as introduced on 16 March 2020

Material to be deleted by the Bill is in strikethrough, e.g. ~~omitted material looks like this~~. Material to be added by the Bill is underlined e.g. added material looks like this. References to the relevant amending provisions of the Bill are provided in the right hand column on each page.

The schedule addresses amendments made by the Bill in connection with the topics of Welsh Partnership Schemes (which make amendments to the provisions in the 1985 and 2000 Acts relating to quality partnership schemes) and Welsh franchising schemes (which make amendments to the provisions of the 1985 and 2000 Acts relating to quality contracts schemes). The Bill also makes amendments to the 1985 and 2000 Acts in connection with the topics of local authority bus services and information sharing in connection with bus services. However, the amendments made in connection with these topics do not significantly amend existing primary legislation and their intended effect is clear on the face of the Bill. As such they have not been included within the schedule below.

#### **Warning**

This text has been prepared by officials of the Economy Sectors and Natural Resources Group of the Welsh Government. Although efforts have been taken to ensure that it is accurate, it should not be relied on as a definitive text of the 1985 and 2000 Acts or the Bill.

It has been produced solely to help people understand the effect of the Bill. It is not intended in any other context.



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<p><b>Transport Act 2000</b></p> <p><b><u>Bus services: Welsh partnership schemes</u></b></p> <p><b><del>Bus services: quality partnership schemes</del></b></p> <p><b>114 <u>Welsh partnership schemes</u> <del>Quality partnership schemes</del></b></p> <p>(1) A local transport authority, or two or more such authorities acting jointly, may make a <u>Welsh quality partnership scheme</u> if they are satisfied that the scheme will contribute to the implementation of <u>the policies contained in their local transport plan</u> <del>their local transport policies</del> (but this is subject to subsection (1A)).</p> <p>(1A) A local transport authority whose area is in England may exercise the power to make a <u>Welsh quality partnership scheme</u> only if—</p> <p>(a) they are acting jointly with one or more other local transport authorities, and</p> <p>(b) at least one of those other local transport authorities is an authority whose area is in Wales.</p> <p><u>(2) A Welsh partnership scheme is a scheme falling within—</u></p> <p>(a) <u>subsection (2A) or (2B), or</u></p> <p>(b) <u>both subsections (2A) and (2B).</u></p>	<p><i>Amending section of Bus Services (Wales) Bill</i></p> <p><i>Section 2</i></p>
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(2A) A scheme falls within this subsection if it is a scheme under which—

(a) the authority or authorities provide particular facilities in the whole or part of their area, or combined area, and

(b) operators of local services may not use those facilities unless they provide the services in accordance with standards specified in the scheme.

(2B) A scheme falls within this subsection if it is a scheme under which—

(a) the authority or authorities take particular measures in the whole or part of their area, or combined area, that are served, or proposed to be served, by local services, and

(b) operators of local services on routes with one or more stopping places in the area to which such a measure relates are required to provide the services in accordance with standards specified in the scheme.

(3) A scheme may not be made unless the authority or authorities are satisfied that—

(a) the facilities to be provided, or measures to be taken, and

(b) the provision of local services in accordance with the standards specified in the scheme,

are likely to achieve one or more of the outcomes described in subsection (3ZA) in relation to the whole or part of the authority's area, or the authorities' combined area.

(3ZA) The outcomes mentioned in subsection (3) are—

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- (a) an improvement in the quality or effectiveness of local services (for example, improvements in the quality of vehicles or facilities used for or in connection with the provision of local services);
- (b) a reduction or limitation of traffic congestion, or noise or air pollution;
- (c) other improvements in local services of benefit to users of those services (for example, an increase in the use of local services or an end to, or a reduction in, a decline in the use of local services).

~~(2) — A quality partnership scheme is a scheme under which —~~

- ~~(a) — the authority or authorities provide particular facilities in the whole or part of their area, or combined area, and~~
- ~~(b) — operators of local services who wish to use the facilities must undertake to provide local services of a particular standard when using them.~~

~~(3) — The authority or authorities must be satisfied that both the provision of those facilities and the provision of local services of that standard will —~~

- ~~(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~~
- ~~(b) — reduce or limit traffic congestion, noise or air pollution.~~

(3A) If the authority or authorities consider that it is necessary or expedient for any restrictions to be imposed on the registration of—

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(a) any local services, or

(b) any local services of a particular description,

they may impose those restrictions (“registration restrictions”) by specifying or describing them in the scheme.

(3B) Any restrictions so imposed must be for the purpose of preventing or restricting—

(a) the provision of local services, or

(b) the variation or withdrawal of local services,

in cases where the authority or authorities consider that any such provision, or (as the case may be) variation or withdrawal, of services might be detrimental to the provision of services under the scheme.

(3C) Where a scheme includes any registration restrictions by virtue of subsection (3A), it must also specify the criteria (“registration criteria”) by reference to which [a traffic commissioner is] to decide whether or not to accept an application for registration.

(3D) In subsections (3A) to (3C) “registration”, in relation to any service,—

(a) means registration of prescribed particulars of the service under section 6 of the Transport Act 1985 (registration of local services), and

(b) includes a reference to the variation or cancellation of any such registration.

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(4) A Welsh ~~quality~~ partnership scheme may not be made unless the authority or authorities have complied with the notice and consultation requirements imposed by section 115.

~~(5) The facilities which may be specified in a scheme—~~

~~(a) must be facilities provided at specific locations along routes served, or proposed to be served, by local services within the area to which the scheme relates, or facilities which are ancillary to such facilities, but~~

~~(b) may not be facilities which are required to be provided as a result of section 139 or 140.~~

~~(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.~~

~~(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) A scheme may include a requirement falling within subsection (6)(b) or (6A) only if there are no admissible objections to the requirement from relevant operators.~~

~~Section 122(3) to (5) makes further provision with respect to such schemes.~~

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~~(6C) — 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.~~

~~(7) — If the provision of any of the facilities requires the making of a traffic regulation order in respect of a road or other place in a metropolitan district (other than a road for which the Secretary of State or the National Assembly for Wales is the traffic authority), the scheme may not be made unless it is made by—~~

~~(a) — the local transport authority or authorities, and~~

~~(b) — the metropolitan district council for the district,~~

~~acting jointly.~~

~~(8) — If the provision of any of the facilities requires the making of a traffic regulation order in respect of a road for which the Secretary of State or the National Assembly for Wales is the traffic authority, the scheme may not be made unless it is made by—~~

~~(a) — the local transport authority or authorities, and~~

~~(b) — the Secretary of State or the National Assembly for Wales,~~

~~acting jointly.~~

~~(9) — Where subsection (7) or (8) applies so that a metropolitan district council, the Secretary of State or the National Assembly for Wales is a maker of the scheme, then (subject to section 121) the relevant~~

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~~references to the authority or authorities include (as well as the local transport authority or authorities) the metropolitan district council, the Secretary of State or the National Assembly for Wales.~~

~~(10) For the purpose of subsection (9) the relevant references are those in—~~

~~(a) subsections (2) and (4),~~

~~(b) sections 115 to 120, and~~

~~(c) section 127(7),~~

~~and paragraph 27(3) of Schedule 9 to the Road Traffic Regulation Act 1984.~~

(11) In carrying out their functions under this Part in relation to Welsh ~~quality~~ partnership schemes, local transport authorities must co-operate with one another.

(12) In considering whether to make a Welsh ~~quality~~ partnership scheme, a local transport authority must have regard to the desirability, in appropriate cases, of making a scheme jointly with another such authority.

*Section 3*

### **114A Facilities and measures**

(1) The facilities to be provided under a Welsh partnership scheme—

(a) must be facilities provided at specific locations along routes served, or proposed to be served, by local services within the area to which the scheme relates, or facilities which are ancillary to such facilities, but

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(b) may not be facilities which are required to be provided as a result of section 139 or 140.

(2) A measure to be taken under a Welsh partnership scheme—

(a) must be taken for the purpose of—

(i) increasing the use of local services serving routes with one or more stopping places in the area to which the measure relates or ending or reducing a decline in the use of such services, or

(ii) improving the quality or effectiveness of local services serving routes with one or more stopping places in the area to which the measure relates, but

(b) may not be a measure which is required to be taken as a result of section 139 or 140.

(3) Subsection (4) applies where—

(a) a facility to be provided, or

(b) a measure to be taken,

requires the making of a traffic regulation order in respect of a road for which the Secretary of State is, or the Welsh Ministers are, the traffic authority (see section 121A of the Road Traffic Regulation Act 1984 (c. 27)).

(4) Where this subsection applies—

(a) the Welsh partnership scheme must be made by—



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(i) the local transport authority or authorities, and

(ii) the Secretary of State or the Welsh Ministers,

acting jointly, and

(b) the relevant references to the authority or authorities are to be read as including the Secretary of State or the Welsh Ministers (as the case may be).

(5) For the purpose of subsection (4)(b) the relevant references are—

(a) in this Act, the references in—

(i) section 114(2A), (2B) and (4),

(ii) sections 115 to 120, and

(iii) section 127(7), and

(b) the references in paragraph 27(3) of Schedule 9 to the Road Traffic Regulation Act 1984.

**114B Service standards**

(1) The service standards specified in a Welsh partnership scheme may—

(a) impose requirements about the frequency or timing of particular local services or local services of particular descriptions (a “route requirement”), or

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(b) impose any other requirement as to the standard of local services (an “operational requirement”).

(2) A route requirement may, in particular, determine the frequency or timing in relation to a local service—

- (a) by reference only to that service, or
- (b) by reference to that service and other local services, taken together.

(3) An operational requirement may, in particular, impose a requirement—

- (a) to be met by vehicles used to provide local services or particular descriptions of local services;
- (b) about ticketing, fares and the manner in which entitlement to travel may be evidenced;
- (c) about providing information to the public about local services or particular descriptions of local services, or otherwise publicising such services;
- (d) as to the dates on which operators may change the timing of local services, or local services of particular descriptions.

(4) An operational requirement to be met by vehicles may, in particular—

- (a) require information to be provided to passengers by means of particular electronic equipment, or electronic equipment of particular descriptions, in vehicles;
- (b) be a requirement about emissions or types of fuel or power.

(5) An operational requirement such as is described in subsection (3)(b) may, in particular—

- (a) specify persons from whom tickets may be purchased or to whom fares may be paid;
- (b) require arrangements to be made for—
  - (i) travel to, within or through particular areas,

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<p><u>(ii) travel at particular times,</u></p> <p><u>(iii) travel on particular local services or particular descriptions of local services,</u></p> <p><u>(iv) travel on particular journeys or on particular descriptions of journey, or</u></p> <p><u>(v) travel by persons of particular descriptions;</u></p> <p><u>(c) require arrangements to be made entitling persons to make a journey, or journeys,</u></p> <p><u>involving—</u></p> <p><u>(i) both travel on one or more local services and travel by one or more connecting rail or tram services, or</u></p> <p><u>(ii) the use of local services provided by more than one operator;</u></p> <p><u>(d) impose requirements about—</u></p> <p><u>(i) the fare for travel such as is described in paragraph (b) or (c) (including specifying that no fare may be payable in particular circumstances), and</u></p> <p><u>(ii) the terms and conditions upon which such travel is made available.</u></p> <p><u>(6) For the purposes of subsection (5)(c)(i), a “connecting rail or tram service”, means a service for the carriage of passengers by rail or tram (or both) running between—</u></p> <p><u>(a) a station or stopping place at, or in the vicinity of, which local services stop and which serves any part of the area to which the Welsh partnership scheme relates, and</u></p> <p><u>(b) any other place.</u></p> <p><u>(7) An operational requirement may require operators of local services—</u></p> <p><u>(a) to establish and operate arrangements facilitating the operation of the Welsh partnership scheme;</u></p>	<p><i>Section 4</i></p>
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(b) to co-operate with each other (whether in pursuance of arrangements such as are described in paragraph (a) or otherwise).

(8) A service standard specified in a Welsh partnership scheme has effect only in relation to so much of a local service as is provided in the area to which the scheme relates.

(9) A Welsh partnership scheme may not specify service standards in relation to the use of vehicles under community bus permits.

*Section 5*

### **114C Objections to service standards**

(1) A service standard which is—

(a) a route requirement, or

(b) an operational requirement of a type such as is described in section 114B(3)(b),

may not be specified in a Welsh partnership scheme if a sufficient number of operators of qualifying local services in the area to which the scheme relates make an admissible objection.

(2) Section 122(3) to (5) makes further provision about objections under this section.

### **115 Notice and consultation requirements**

(1) If an authority or authorities propose to make a ~~Welsh quality~~ partnership scheme, they must give notice of the proposed scheme in such manner as the authority or authorities consider appropriate for bringing it to the attention of persons at least one newspaper circulating in the area to which it relates.

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<p>(2) The notice must either contain full details of the facilities, <u>measures and service standards</u> <del>and standards of services</del>, and of any registration restrictions and registration criteria, or state where such details may be inspected.</p> <p>(3) After giving notice of the proposed scheme, the authority or authorities must consult—</p> <ul style="list-style-type: none"><li>(a) all operators of local services who would, in the opinion of the authority or authorities, be affected by it,</li><li>(b) such organisations appearing to the authority or authorities to be representative of users of local services as they think fit,</li><li>(c) any other relevant local authority any part of whose area would, in the opinion of the authority or authorities, be affected by it,</li><li>(d) a traffic commissioner,</li><li>(e) the chief officer of police for each police area covering the whole or part of that area, and</li><li>(f) such other persons as the authority or authorities think fit.</li></ul> <p>(4) For the purpose of subsection (3)(c) the following are relevant local authorities—</p> <ul style="list-style-type: none"><li>(a) local transport authorities, <u>and</u></li><li>(b) district councils in England,</li><li>(c) <del>London transport authorities, and</del></li></ul>	<p><i>Section 6</i></p>
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~~(d) — councils in Scotland.~~

### **116 Making of scheme**

(1) If the authority or authorities decide that it is appropriate to make the scheme, they may make it as proposed or with modifications.

(1A) The scheme may provide for—

(a) different facilities to be provided by the authority or authorities;

(b) different measures to be taken by the authority or authorities;

(c) operators of local services to be required to provide local services in accordance with different service standards,

as from different dates after the scheme comes into operation.

(2) The scheme must specify each of the following—

(a) the facilities to be provided under it by the authority or authorities,

(aa) the measures to be taken under it by the authority or authorities,

(b) the service standards in accordance with which operators are to provide local services,

~~(b) — the standard of services to be provided under it by operators of local services,~~

(bb) any registration restrictions imposed by it and any registration criteria specified in it,

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- (c) the date on which it is to come into operation,
- (d) the period for which it is to remain in operation, ~~which must not be less than five years,~~
- (e) if—

(i) any facilities are to be provided,

(ii) any measures are to be taken, or

(iii) operators are to be required to provide local services in accordance with any service standards,

as from a date after the scheme comes into operation, the date from which they are to be so provided, taken or required.

~~(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.~~

(3) The scheme may provide that—

- (a) local services specified in it, or
- (b) local services of a class specified in it,

are to be excluded from the scheme, subject to such conditions (if any) as may be specified in it.

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(4) The date as from which any particular facilities are to be provided, or any particular measure is to be taken, must not be earlier than the latest of—

(a) the date falling 3 months after the date on which notice is given under subsection (6),

(b) the date by which, in the opinion of the authority or authorities, it will be reasonably practicable for them to provide the facilities or take the measure,

(c) the date falling 3 months after—

(i) the date on which any traffic regulation order required for the provision of the facilities or the taking of the measure is made, or

(ii) if more than one such order is required, the date on which the last order is made,

(d) in a case where, as from the date by which the facilities are to be provided or the measure is to be taken, operators of local services on routes—

(i) along which the facilities are to be provided, or

(ii) with one or more stopping places in the area to which the measure relates,

are to be required to provide local services in accordance with particular service standards, the date by which, in the opinion of the authority or authorities, it will be reasonably practicable for those operators to provide those services in accordance with the particular standards.



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(4A) Despite subsection (4), particular facilities may be provided, or a particular measure may be taken, from such other date as may be agreed between the authority or authorities and every operator of local services on routes—

(a) along which the facilities are to be provided, or

(b) with one or more stopping places in the area to which the measure relates.

(4B) The date as from which operators are to be required to provide local services in accordance with particular service standards must be no earlier than the latest of—

(a) the date falling 3 months after the date on which notice is given under subsection (6),

(b) the date by which, in the opinion of the authority or authorities, it will be reasonably practicable for operators to provide local services in accordance with the particular standards,

(c) in a case where, as from the date by which particular facilities are to be provided or a particular measure is to be taken, operators of local services on routes—

(i) along which the facilities are to be provided, or

(ii) with one or more stopping places in the area to which the measure relates,

are to be required to provide local services in accordance with particular service standards, the date referred to in subsection (4)(b), or

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(d) in a case such as is referred to in paragraph (c) but where one or more traffic regulation orders are required for the provision of the facilities or the taking of the measure, the date referred to in subsection (4)(c).

(4C) Despite subsection (4B), the authority or authorities and every operator of local services to which a service standard is to apply may agree a different date from which the operators are to be required to provide the services in accordance with that standard.

~~(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.~~

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~~(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 the particular standard.~~

(5) [repealed]

(6) Not later than 14 days after the date on which the scheme is made, the authority or authorities must give notice—

(a) in such manner as the authority or authorities consider appropriate for bringing it to the attention of persons ~~at least one newspaper circulating~~ in the area to which the scheme relates,

(b) to all operators of local services who would, in the opinion of the authority or authorities, be affected by the scheme[, and

(c) to a traffic commissioner.

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(7) The notice must—

- (a) either contain full details of the scheme or state where such details may be inspected, and
- (b) if the scheme made is a modified version of that proposed, state that fact.

**117 Postponement of scheme or of provision of particular facilities, measures or standards of service**

(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,
- (ba) the date as from which any particular measure is to be taken under the scheme,
- (c) the date as from which any particular services are to be provided to a particular standard under the scheme.

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| <p>(2) Before making such a decision they must consult all operators of local services who would, in their opinion, be affected by the scheme.</p> <p>(3) Not later than 14 days after the date on which any such decision is made they must give notice of the decision—</p> <ul style="list-style-type: none"><li>(a) in <u>such manner as the authority or authorities consider appropriate for bringing it to the attention of persons</u> <del>at least one newspaper circulating</del> in the area to which the scheme relates,</li><li>(b) to all operators of local services who would, in their opinion, be affected by the scheme,</li></ul> <p>and</p> <ul style="list-style-type: none"><li>(c) to a traffic commissioner.</li></ul> <p><b>118 Effect of scheme</b></p> <p>(1) The authority or authorities must—</p> <ul style="list-style-type: none"><li>(a) <u>provide each of the specified facilities or take each of the specified measures not later than the date specified for it to be provided or taken under the scheme,</u></li><li><del>(a) provide each of the specified facilities not later than the date specified for its provision under the scheme, and</del></li></ul> |  |
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(b) continue to provide the facilities or keep the measures in effect it throughout the remainder of the period for which the scheme is in operation.

(2) But subsection (1) does not apply in relation to any period during which the authority or authorities are temporarily unable to provide the facilities, take the measures or keep the measures in effect owing to circumstances beyond their control.

(3) Nor does it apply in the case of the Secretary of State or the Welsh Ministers if the Secretary of State is, or the Welsh Ministers are, unable to provide the facilities or take the measures or keep the measures in effect owing to the variation or revocation of a traffic regulation order.

~~(3) Nor does it apply in the case of the Secretary of State or the National Assembly for Wales if he or it is unable to provide the facilities owing to the variation or revocation of a traffic regulation order.~~

(4) The operator of a local service may not use facilities provided under a Welsh partnership scheme unless the operator provides the service in accordance with the service standards required by the scheme that are relevant to the use of those facilities.

~~(4) The operator of a local service may not use facilities provided under a quality partnership scheme unless—~~

~~(a) he has given a written undertaking to [a traffic commissioner] [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], and~~

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~~(b) he provides the service to that standard when using the facilities, except in relation to any period during which he is temporarily unable to do so owing to circumstances beyond his control.~~

(4A) Where a measure has been taken under a Welsh partnership scheme, the operator of a local service may not use a stopping place in the area to which that measure relates unless the operator provides the service

in accordance with the service standards required by the scheme that are relevant to the use of such a stopping place.

(4B) But subsections (4) and (4A) do not apply where an operator is temporarily unable to provide a service in accordance with a service standard because of circumstances beyond the operator's control.

(5) And subsections (4) and (4A) also do ~~subsection (4) does~~ not apply in relation to services which are excluded from the scheme as a result of any provision of the scheme made in accordance with section 116(3).

(6) Where the exclusion of a local service from the scheme is made subject to conditions as a result of such a provision, those conditions are to be treated, during any period in which the scheme is in operation, as if they were prescribed particulars registered under section 6 of the Transport Act 1985 (registration of local services) of the service concerned.

### **119 Regulations about schemes involving existing facilities or measures**

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(1) The appropriate national authority may by regulations make provision about the specifying in Welsh partnership schemes of—

(a) facilities which are already being provided before the schemes are proposed (“existing facilities”).

(b) measures which are already in effect before the schemes are proposed (“existing measures”).

~~(1) The appropriate national authority may by regulations make provision about the specifying in quality partnership schemes of facilities which are already being provided before the schemes are proposed (“existing facilities”).~~

(2) The regulations may in particular—

(a) provide that existing facilities may not be specified if they were being provided before a date prescribed by, or determined in accordance with, the regulations,

(aa) provide that existing measures may not be specified if they were in effect before such a date,

(b) provide that—

(i) particular existing facilities or classes of existing facilities, or

(ii) particular existing measures or classes of existing measures,

may not be specified (whenever they were first provided or taken),

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(c) provide that—

(i) particular existing facilities or classes of existing facilities, or

(ii) particular existing measures or classes of existing measures,

may be specified only in circumstances prescribed by the regulations,

(d) provide that, in circumstances prescribed by the regulations—

(i) particular existing facilities or classes of existing facilities, or

(ii) particular existing measures or classes of existing measures,

may be specified only with the consent of a person prescribed by, or determined in  
accordance with, the regulations.

~~(b) provide that particular existing facilities or classes of existing facilities may not be specified  
(whenever they were first provided);~~

~~(c) provide that particular existing facilities or classes of existing facilities may be specified only  
in circumstances prescribed by the regulations;~~

~~(d) provide that, in circumstances prescribed by the regulations, particular existing facilities or  
classes of existing facilities may be specified only with the consent of a person prescribed  
by, or determined in accordance with, the regulations, and~~

(e) make provision modifying any provision of sections 115 to 117 in relation to schemes which  
specify existing facilities or existing measures.

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**120 Variation or revocation of schemes**

(1) The authority or authorities who made a ~~Welsh quality~~ Welsh partnership scheme may vary the scheme if they decide that it is appropriate to do so.

(1A) In particular, a scheme may be varied so as to extend the period for which it is to remain in operation.

(2) The authority or authorities who made a scheme may revoke it before the end of the period for which it would otherwise remain in operation if all operators of local services to whom subsection (4) or (4A) of section 118 applies in respect of persons who have given an undertaking to provide a service to the standard specified in the scheme consent to the revocation of the scheme; and such consent must not be unreasonably withheld.

(3) If the variation of a scheme under subsection (1) would require the making of a traffic regulation order, the variation is subject to the same procedure as the making of a scheme.

(4) Any other variation of a scheme under subsection (1), or the revocation of a scheme under subsection (2), is subject to that procedure, except to the extent that the procedure is modified by regulations made under section 122.

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**121 Variation: supplementary**

(1) The relevant references to the authority or authorities in relation to a Welsh ~~quality~~ partnership scheme—

- (a) include a local transport authority if it has been varied so that it relates to that authority's area, but
- (b) do not include a local transport authority if it has been varied so that it no longer relates to that authority's area.

(2) But if (although the scheme does not relate to a local transport authority's area) it would do by reason of a proposed variation, those references (apart from those in section 118) include that authority.

(3) The relevant references (apart from those in section 114(1) and (3)) to the authority or authorities in relation to a Welsh ~~quality~~ partnership scheme—

- (a) include a traffic regulation authority if it has been varied so that it specifies traffic regulation facilities or traffic regulation measures, but
- (b) do not include a traffic regulation authority if it has been varied so that it no longer specifies such facilities or measures.

(4) But if (although the scheme does not specify facilities which are traffic regulation facilities or measures which are traffic regulation measures, in relation to a traffic regulation authority) it would do

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<p>by reason of a proposed variation, those references (apart from those in section 118) include that authority.</p> <p>(5) And if (although the scheme specifies facilities which are traffic regulation facilities“, <u>or measures which are traffic regulation measures</u>, in relation to a traffic regulation authority)—</p> <ul style="list-style-type: none"><li>(a) the traffic regulation order, or (where more than one) each of the traffic regulation orders, required to be made by that authority for the provision of those facilities <u>or the taking of those measures</u> has been revoked, and</li><li>(b) the scheme is proposed to be varied (but not so that it specifies other facilities which are traffic regulation facilities, <u>or other measures which are traffic regulation measures</u>, in relation to that authority),</li></ul> <p>the relevant references (apart from those in section 118) do not include that authority.</p> <p>(6) For the purposes of this section the relevant references are those in—</p> <ul style="list-style-type: none"><li>(a) section 114(1) to (4),</li><li>(b) sections 115 to 120, and</li><li>(c) section 127(7),</li></ul> <p>and paragraph 27(3) of Schedule 9 to the Road Traffic Regulation Act 1984.</p> <p>(7) In this section “traffic regulation authority” means—</p> <ul style="list-style-type: none"><li>(a) <del>a metropolitan district council,</del></li></ul>	<p><i>Section 10</i></p>
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(b) the Secretary of State, or

(c) the Welsh Ministers.

(8) For the purposes of this section facilities are traffic regulation facilities, in relation to a traffic regulation authority and a Welsh quality partnership scheme, if that authority was required to be a maker of the scheme because it originally specified those facilities or would have been required to be a maker of it had it done so.

(9) For the purposes of this section measures are traffic regulation measures, in relation to a traffic regulation authority and a Welsh partnership scheme, if that authority was required to be a maker of the scheme because it originally specified those measures or would have been required to be a maker of it had it done so.

### **122 Regulations about schemes**

(1) The appropriate national authority may by regulations make further provision with respect to—

(a) the procedure to be followed when making, varying or revoking Welsh quality partnership schemes,

(aa) the types of service standards which may be objected to under section 114C,

(ab) the content or operation of schemes which specify service standards of a type which may be objected to under that section,

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| <p><del>(aa) the content or operation of schemes which include a requirement falling within section 114(6)(b) or (6A),</del></p> <p>(b) the local services or classes of local services which must be, or may be, excluded from schemes,</p> <p>(c) the conditions which must be, or may be, attached to such exclusions,</p> <p><del>(d) the form and manner in which undertakings are to be given to a traffic commissioner in connection with schemes,</del></p> <p>(e) the making of traffic regulation orders in connection with schemes, and</p> <p>(f) such other incidental matters in connection with <u>Welsh</u> quality partnership schemes as the appropriate national authority thinks fit.</p> |  |
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(2) The regulations may in particular make provision with respect to—

- (a) giving notice of proposed schemes or proposed variations or revocation of schemes,
- (b) objections to such proposals,
- (c) the holding of inquiries or hearings into objections,
- (d) modifications of such proposals,
- (e) the form of schemes or variations, and

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(f) giving notice of schemes which have been made or of the variation or revocation of schemes.

(2A) Regulations under subsection (1)(aa) may—

(a) amend section 114C(1) so as to—

(i) specify a further type of service standard which may be objected to under that section,

(ii) remove a type of service standard so that it may not be so objected to, or

(iii) otherwise modify the description of a type of service standard specified in that section;

(b) make such other amendments to this Act in consequence of provision made under paragraph (a) as the appropriate national authority thinks fit.

(3) As regards schemes which include a service standard which may be objected to under section 114C, regulations under subsection (1)(a) or (ab) may in particular make provision—

(a) for section 114C not to apply in such circumstances as may be prescribed;

(b) requiring such schemes to include provision falling within subsection (4) in such circumstances as may be prescribed;

(c) for a service standard of a type which may be objected to under section 114C not to be revised if a sufficient number of the persons who are operators of qualifying local services in the area to which the scheme relates make an admissible objection to the revision;

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| <p><u>(d) in prescribed circumstances where such schemes, or any provisions of such schemes, are subject to postponement under section 117, for a service standard of a type which may be objected to under section 114C not to take effect unless prescribed conditions are satisfied;</u></p> <p><u>(e) as to what constitutes a sufficient number of the persons who are operators of qualifying local services for the purposes of objecting to a service standard or to the revision of a standard;</u></p> <p><u>(f) as to the meaning of “admissible objection” and “operators of qualifying local services” for those purposes;</u></p> <p><u>(g) as to the procedure for making objections under section 114C or under regulations made under paragraph (c) of this subsection (including specifying time limits for making objections);</u></p> <p><u>(h) as to the determination of any question whether an objection has been validly made (including whether an objection is an admissible objection or whether an operator is an operator of qualifying local services) or whether a sufficient number of objections have been made;</u></p> <p><u>(i) as to when a service standard ceases to have effect following admissible objections from a sufficient number of the persons who are operators of qualifying local services in the area to which the scheme relates.</u></p> |  |
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(3A) Regulations containing provision of the kind described in subsection (3)(e) may, in particular—

(a) specify that a sufficient number of persons is—

(i) all persons providing qualifying local services in the area in question at such time as the regulations may specify, or

(ii) such number of persons as, together, provide at least such proportion of the qualifying local services in the area in question as is specified in the regulations, in addition to being at least such proportion of all persons providing those services as is specified in the regulations;

(b) make provision about determining the proportion of qualifying local services provided by an operator, including provision about the time by reference to which the proportion is to be determined.

(3B) Regulations making provision as to the meaning of “admissible objection” may in particular specify that an objection is not admissible unless the grounds for the objection are such as may be specified in the regulations.

~~(3) As regards schemes which include any requirement mentioned in section 114(6)(b) or (6A), regulations under subsection (1)(a) or (aa) may in particular make provision—~~

~~(a) for section 114(6B) not to apply in such circumstances as may be prescribed,~~

~~(b) requiring such schemes to include provision falling within subsection (4),~~

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- ~~(c) — for any requirement as to frequencies, timings or maximum fares to be revised only if there are no admissible objections to the revision from relevant operators,~~
- ~~(d) — in prescribed circumstances where such schemes, or any provisions of such schemes, are subject to postponement under section 117, for any such requirement not to take effect unless prescribed conditions are satisfied,~~
- ~~(e) — as to the meaning of “admissible objection” for the purposes of section 114(6B) and paragraph (c) of this subsection,~~
- ~~(f) — as to the meaning of “relevant operator” for those purposes,~~
- ~~(g) — as to the determination of any question whether an objection is an admissible objection or an operator is a relevant operator.~~

(4) The provision referred to in subsection (3)(b) is—

- (a) as respects schemes which include route requirements, provision about the setting of frequencies or timings to which the requirements relate;
- (b) as respects schemes which include an operational requirement imposing a maximum fare that may be charged for particular journeys, or for journeys of particular descriptions, provision about the setting of such maximum;
- (c) provision specifying a minimum interval before any requirement such as is mentioned in paragraph (a) or (b) may be reviewed;

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(d) provision specifying a maximum interval before any such requirement must be reviewed;

(e) provision specifying other circumstances in which any such requirements must or may be reviewed;

(f) provision about revision of any such requirements after a review.

~~(4) The provision referred to in subsection (3)(b) is provision—~~

~~(a) as respects the setting of frequencies, timings or maximum fares to which the requirements relate,~~

~~(b) for a minimum interval before any requirements as to frequencies, timings or maximum fares may next be reviewed,~~

~~(c) for a maximum interval before any such requirements must next be reviewed,~~

~~(d) as respects other circumstances in which any such requirements must or may be reviewed,~~

~~(e) as respects revision of any such requirements after a review.~~

(5) Subsections (3)(b) and (4) have effect subject to, and in accordance with, the following provisions—

(a) the revision of a route requirement or an operational requirement ~~requirements as to frequencies, timings or maximum fares~~ under any provision made in accordance with

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<p>those subsections is not to be regarded as a variation of the scheme for the purposes of section 120 (variation or revocation of scheme), but</p> <p>(b) nothing in those subsections or in paragraph (a) of this subsection shall be taken to derogate from what may be done under or by virtue of that section.</p> <p>(6) The provision that may be made by virtue of <u>subsection (3)(h)</u> <del>subsection (3)(g)</del> includes provision for and in connection with—</p> <p>(a) the appointment of a person (“an adjudicator”) to make such a determination as is mentioned in that paragraph;</p> <p>(b) the appointment of a person (“an assessor”) to assist an adjudicator in considering any question which appears to arise in relation to such a determination;</p> <p>(c) the payment—</p> <p>(i) by the appropriate national authority to an adjudicator, or</p> <p>(ii) by the appropriate national authority or an adjudicator to an assessor,</p> <p>of such remuneration as may be determined by or in accordance with the regulations.</p> <p>(7) In this section, “route requirement” and “operational requirement” have the same meanings as in <u>section 114B</u>.</p>	<p><i>Section 13</i></p>
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### 123 Guidance about schemes

- (1) The Welsh Ministers ~~appropriate national authority~~ may issue guidance concerning the carrying out by local transport authorities and ~~metropolitan district councils~~ of their functions under this Part in relation to Welsh ~~quality~~ partnership schemes.
- (2) Those authorities ~~and councils~~ must have regard to any such guidance.

### Bus services: Welsh franchising schemes

### ~~Bus services: quality contracts schemes in Wales~~

### 124 Welsh franchising schemes

- (1) A local transport authority for an area in Wales, or two or more such authorities acting jointly, may make a Welsh franchising scheme covering the whole or any part of their area, or combined area.
- (2) A Welsh franchising scheme may not be made unless the authority or authorities have complied with sections 124A to 124D.
- (3) A Welsh franchising scheme is a scheme under which—
- (a) the authority or authorities determine 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
  - (b) local services may only be provided in that area in accordance with local franchise contracts (subject to sections 127(5) and 132C).

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(4) A local franchise contract, in relation to a Welsh franchising scheme, means a contract entered into under section 130 under which—

(a) the authority or authorities grant to another person the exclusive right to operate the local services to which the contract relates, and

(b) that person undertakes to provide the services on such terms (including in particular as to frequency, fares and standard of service) as may be specified in the contract.

(5) The terms as to standard of service that may be specified include terms about requirements which vehicles being used to provide the service must meet, including requirements about emissions or types of fuel or power.

(6) A local franchise contract may be made on terms—

(a) which include provision for the making of payments by the authority or authorities to the person undertaking to provide the local service;

(b) requiring one or more of the parties to provide additional facilities or services.

(7) Section 88(1) of the Transport Act 1985 (application to subsidy agreements of sections 89 to 92 of that Act) does not apply in relation to local franchise contracts.

(8) In considering whether to make a Welsh franchising scheme, a local transport authority must have regard to the desirability, in appropriate cases, of making a scheme jointly with another such authority.

### **124 Quality contracts schemes**

~~(1) A local transport authority [for an area in Wales], or two or more such authorities acting jointly, may make a quality contracts scheme covering the whole or any part of their area, or combined area, if they are satisfied that—~~

~~(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,~~

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- ~~(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) any adverse effects of the proposed scheme on operators will be proportionate to the improvement in the well-being of persons living or working in the area to which the proposed scheme relates and, in particular, to the achievement of the objectives mentioned in paragraphs (a) to (d).~~

~~(1A) [repealed]~~

~~(1B) [repealed]~~

~~(2) A quality contracts scheme may not be made unless the authority or authorities—~~

~~(a) have complied with the requirements of section 125, and~~

~~(b) have obtained the approval of the Welsh Ministers in accordance with section 126.~~

~~(2A) [repealed]~~

~~(3) A quality contracts scheme is a scheme under which—~~

~~(a) the authority or authorities determine 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~~

~~(b) local services may only be provided in that area in accordance with quality contracts (subject to section 127(4) [and section 132C]).~~

~~(4) In this Part “quality contract”, in relation to a quality contracts scheme, means an agreement entered into under section 130 or 131 under which—~~

~~(a) the authority or authorities grant to another person the exclusive right to operate the local services to which the contract relates, and~~

~~(b) that person undertakes to provide the services on such terms (including in particular as to frequency, fares and standard of service) as may be specified in the agreement.~~

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<p><del>(5) A quality contract may be made on terms—</del></p> <p style="padding-left: 40px;"><del>(a) which include provision for the making of payments by the authority or authorities to the person undertaking to provide the local service, and</del></p> <p style="padding-left: 40px;"><del>(b) requiring one or more of the parties to provide additional facilities or services.</del></p> <p><del>(6) Section 88(1) of the Transport Act 1985 (application to subsidy agreements of sections 89 to 92 of that Act) does not apply in relation to quality contracts.</del></p> <p><del>(7) The authority or authorities must keep under review the extent to which quality contracts entered into by them are complied with.</del></p> <p><del>(8) In carrying out their functions under this Part in relation to quality contracts schemes, local transport authorities must co-operate with one another.</del></p> <p><del>(9) In considering whether to make a quality contracts scheme, a local transport authority [for an area in Wales] must have regard to the desirability, in appropriate cases, of making a scheme jointly with another [such] authority.</del></p> <p><del>(9A) [repealed]</del></p> <p><del>(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.</del></p> <p><del>(10) [repealed]</del></p> <p><del>(11) [repealed]</del></p> <p><del>(12) [repealed]</del></p> <p><del>(13) [repealed]</del></p> <p><b><u>124A Assessment of proposed scheme</u></b></p> <p><b><u>(1) An authority or authorities that propose to make a Welsh franchising scheme must prepare an assessment of the proposed scheme.</u></b></p>	<p><i>Section 14</i></p>
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<p><u>(2) The assessment must—</u></p> <p><u>(a) describe the effects that the scheme is likely to produce, and</u></p> <p><u>(b) compare making the scheme to one or more other courses of action.</u></p> <p><u>(3) The assessment must also include consideration of—</u></p> <p><u>(a) whether the proposed scheme would contribute to the implementation by the authority or authorities of—</u></p> <p><u>(i) the policies contained in their local transport plan, and</u></p> <p><u>(ii) other policies affecting local services that they have adopted and published,</u></p> <p><u>(b) whether the proposed scheme would contribute to the implementation by neighbouring local transport authorities of —</u></p> <p><u>(i) the policies contained in their local transport plan, and</u></p> <p><u>(ii) other policies affecting local services that they have adopted and published,</u></p> <p><u>(c) how the authority or authorities would make and operate the proposed scheme,</u></p> <p><u>(d) whether the authority or authorities would be able to afford to make and operate the proposed scheme,</u></p> <p><u>(e) whether the proposed scheme would represent value for money,</u></p> <p><u>(f) the extent to which the authority or authorities are likely to be able to secure that local services are operated under local franchise contracts,</u></p> <p><u>(g) the likely impact of the proposed scheme on small and medium-sized bus operators providing local services in the area to which the scheme relates, and</u></p> <p><u>(h) the authority's or authorities' proposals for excluding any local services from the scheme under section 127(5).</u></p> <p><u>(4) Subsections (2) and (3) do not prevent other matters being included in an assessment.</u></p>	<p><i>Section 14</i></p>
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**124B Audit of assessment**

(1) If, after preparing an assessment of a proposed scheme under section 124A, the authority or authorities wish to proceed with the proposed scheme, they must obtain a report from an independent auditor on the assessment.

(2) The auditor's report must state whether, in the auditor's opinion—

(a) the information relied on by the authority or authorities in considering the matters referred to in section 124A(3)(d) and (e) (affordability and value for money of proposed scheme) is of sufficient quality,

(b) the analysis of that information in the assessment is of sufficient quality, and

(c) the authority or authorities had due regard to guidance issued under section 134A(1)(a) in preparing the assessment.

(3) The Welsh Ministers must issue guidance about the matters an auditor is to take into account when forming an opinion as to whether the information relied on, and the analysis of that information, by an authority or authorities is of sufficient quality for the purposes of subsection (2).

(4) An auditor must, in preparing a report for the purposes of this section, have regard to such guidance.

(5) In this section "auditor", in relation to a proposed scheme, means—

(a) the Auditor General for Wales, or

(b) a person eligible for appointment as a statutory auditor by virtue of Chapter 2 of Part 42 of the Companies Act 2006 ("the 2006 Act").

(6) For the purposes of this section an auditor is independent, in relation to an assessment of a proposed scheme, if—

(a) the auditor is the Auditor General for Wales, or

(b) in the case of a person who is not the Auditor General for Wales, and treating the assessment as if it were a statutory audit under Part 42 of the 2006 Act and the authority or authorities as if they were an audited person under that Part, the auditor would not be

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prevented from acting as statutory auditor of the audited person by subsection (2) or (3) of section 1214 of the 2006 Act (independence requirement).

**124C Notice and consultation requirements**

(1) This section applies if, after obtaining an auditor's report under section 124B, the authority or authorities wish to proceed with the proposed scheme.

(2) The authority or authorities must—

- (a) publish a consultation document relating to the scheme (see subsection (3)),
- (b) publish the assessment of the scheme,
- (c) publish the auditor's report on that assessment, and
- (d) give notice of the scheme in such manner as the authority or authorities consider appropriate for bringing it to the attention of persons in the area to which it relates.

(3) A consultation document must include—

- (a) a description of the area to which the scheme relates,
- (b) a description of the areas within that area for which different provision is proposed to be made (if any),
- (c) a description of the local services that are proposed to be provided under local franchise contracts,
- (d) a description of the local services that are proposed to be excluded from the scheme under section 127(5),
- (e) the date on which the scheme is proposed to be made,
- (f) the date or dates by which it is proposed that local franchise contracts first be entered into,
- (g) a description of the authority's or authorities' plans for consulting in order to seek views on how well the scheme is working.

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(h) a statement about how, in conducting the procurement process for the provision of local services, the authority or authorities propose to facilitate the involvement of small and medium-sized operators in the provision of local services,

(i) a summary of the assessment of the scheme prepared under section 124A, and

(j) the date by which responses to the consultation document must be received.

(4) A notice under subsection (2)(d) must—

(a) describe the proposed scheme, and

(b) state where copies of the scheme and the documents mentioned in subsection (2)(a) to (c) may be inspected.

(5) After giving notice under subsection (2)(d), the authority or authorities must consult—

(a) all persons operating local services in the area to which the scheme relates,

(b) all other persons holding a PSV operator's licence or a community bus permit who would, in the opinion of the authority or authorities, be affected by the scheme,

(c) such persons as appear to the authority or authorities to represent employees of persons falling within paragraph (a),

(d) such organisations appearing to the authority or authorities to be representative of users of local services in the area to which the scheme relates as they think fit,

(e) such organisations appearing to the authority or authorities to be representative of operators of local services in the area to which the scheme relates as they think fit,

(f) a National Park authority any part of whose area would, in the opinion of the authority or authorities, be affected by the proposed scheme,

(g) any local transport authority any part of whose area would, in the opinion of the authority or authorities, be affected by the proposed scheme,

(h) a traffic commissioner,

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(i) the chief constable for each police area covering the whole or part of the area to which the proposed scheme relates, and

(j) the Competition and Markets Authority.

(6) The authority or authorities may modify the proposed scheme after consulting those persons and organisations.

### **124D Response to consultation**

(1) An authority or authorities that conduct a consultation under section 124C must publish a report setting out—

(a) the authority's or authorities' response to the consultation, and

(b) the authority's or authorities' decision on whether to make the scheme.

(2) If the authority or authorities decide to make the scheme, the report must set out how, in conducting the procurement process for the provision of local services, they will facilitate the involvement of small and medium-sized operators in the provision of local services.

(3) The authority or authorities must give notice of the report to a traffic commissioner.

### **125 Notice and consultation requirements**

~~(1) If an authority or authorities propose to make a quality contracts scheme, they must give notice of the proposed scheme in at least one newspaper circulating in the area to which it relates [they must—~~

~~(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.~~

~~[(1A) The consultation document mentioned in subsection (1)(a) must include—~~

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<p><del>(a) a description of the proposed scheme;</del></p> <p><del>(b) a statement of the reasons why the authority or authorities are satisfied that the conditions in subsection (1) of section 124 are met;</del></p> <p><del>(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;</del></p> <p><del>(d) a statement of how any costs which the authority or authorities expect to incur under the scheme are to be defrayed;</del></p> <p><del>(e) a declaration by the chief finance officer or officers of the authority or authorities that, after taking into account—</del></p> <p style="padding-left: 40px;"><del>(i) any estimated income from fares, and</del></p> <p style="padding-left: 40px;"><del>(ii) any grants from Ministers of the Crown or government departments,</del></p> <p><del>any remaining funding required to implement the scheme can be provided from other resources available to the authority or authorities;</del></p> <p><del>(f) the date by which any written responses to the consultation must be submitted to the authority or authorities.</del></p> <p><del>(1B) The description of the proposed scheme contained in the consultation document in accordance with subsection (1A)(a) must include—</del></p> <p style="padding-left: 40px;"><del>(a) an outline of the local services which are proposed to be provided under it;</del></p> <p style="padding-left: 40px;"><del>(b) a statement of any proposed exclusions from the scheme by virtue of section 127(4).</del></p> <p><del>(1C) In subsection (1A)(e) “chief finance officer”, in relation to a local transport authority, means that officer of the authority who is responsible under—</del></p> <p style="padding-left: 40px;"><del>(a) section 151 of the Local Government Act 1972, or</del></p> <p style="padding-left: 40px;"><del>(b) section 73 of the Local Government Act 1985,</del></p> <p><del>for making arrangements for the proper administration of the financial affairs of the authority.]</del></p>	
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<p><del>(2) — The notice must —</del></p> <ul style="list-style-type: none"> <li><del>(a) describe the proposed scheme, [and]</del></li> <li><del>(b) state where a copy of the scheme [and the consultation document] may be inspected, and</del></li> <li><del>(c) state their reasons for wishing to make the scheme.</del></li> </ul> <p><del>(3) — After giving notice of the proposed scheme, the authority or authorities must consult —</del></p> <ul style="list-style-type: none"> <li><del>(a) all persons operating local services in the area to which it relates,</del></li> <li><del>(b) all other persons holding a PSV operator's licence or a community bus permit who would, in the opinion of the authority or authorities, be affected by it,</del></li> <li><del>(c) such organisations appearing to the authority or authorities to be representative of users of local services as they think fit,</del></li> <li><del>(d) any other relevant local authority any part of whose area would, in the opinion of the authority or authorities, be affected by it,</del></li> <li><del>(e) a traffic commissioner,</del></li> <li><del>(f) the chief officer of police for each police area covering the whole or part of [the area to which the proposed scheme relates], and</del></li> <li><del>(g) such other persons as the authority or authorities think fit.</del></li> </ul> <p><del>(4) — For the purpose of subsection (3)(d) the following are relevant local authorities —</del></p> <ul style="list-style-type: none"> <li><del>(a) local transport authorities,</del></li> <li><del>(b) district councils in England,</del></li> <li><del>(c) London transport authorities, and</del></li> <li><del>(d) councils in Scotland.</del></li> </ul> <p><del>(5) — The authority or authorities may modify the proposed scheme following those consultations.</del></p>	<p><i>Section 15</i></p>
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**~~126 Approval of proposed schemes for areas in Wales~~**

~~(A1) [repealed]~~

~~(1) If, having complied with [the requirements of] section 125, the authority or authorities wish to proceed with the proposed scheme, they must apply to the appropriate national authority for its approval.~~

~~(2) The application must include—~~

~~(a) their reasons for wishing to make the scheme, and~~

~~(b) such other information as the appropriate national authority may reasonably require.~~

~~(3) Any person consulted [who was consulted, or who is aggrieved at not being consulted,] under section 125(3) may make written representations to the appropriate national authority about the scheme.~~

~~(4) The appropriate national authority may approve the proposed scheme, with or without modifications, if it is satisfied that—~~

~~(a) the conditions set out in paragraphs (a) and (b) [paragraphs (a) to (e)] of section 124(1) [or (as the case may be) paragraphs (a) to (d) of section 124(1A)] are met, and~~

~~(b) it is in the interests of the public that the scheme is made.~~

~~(5) If the appropriate national authority proposes to approve the scheme with modifications, it must first inform the authority or authorities and they must—~~

~~(a) consult such of the persons they consulted under section 125(3) as would, in their opinion, be affected by those modifications, and~~

~~(b) inform the appropriate national authority as to the outcome of that consultation.~~

~~(6) After being informed of that outcome the appropriate national authority may approve the scheme either with those modifications or without modifications.~~

**~~126A~~** [repealed]

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**126B** [repealed]

**126C** [repealed]

**126D** [repealed]

**126E** [repealed]

**127 Making of a Welsh franchising scheme**

(1) If the authority or authorities publishing a report under section 124D have decided to make the scheme, they must do so, and publish it, at the same time as the report is published.

(2) The scheme must specify—

(a) the area to which it relates,

(b) the local services intended to be provided under local franchise contracts,

(c) the date on which local franchise contracts may first be entered into, and

(d) the minimum period that is to expire between the making of a local franchise contract and the provision of a local service under the contract.

(3) A scheme may specify—

(a) areas within the area to which the scheme relates (“scheme sub-areas”),

(b) for each scheme sub-area, the date on which a local franchise contract to provide a local service in that scheme sub-area may first be entered into, and

(c) for each scheme sub-area, the minimum period that is to expire between the making of a local franchise contract to provide such a service and the provision of such a service under the contract.

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(4) A scheme may not specify under subsection (2)(d) or (3)(c) a period of less than six months.

(5) The scheme may provide that—

(a) local services specified in it, or

(b) local services of a class specified in it,

are to be excluded from the scheme, subject to such conditions (if any) as may be specified in it.

(6) If the scheme relates to an area to which a Welsh partnership scheme also relates, the franchising scheme must include—

(a) in a case where the Welsh partnership scheme relates only to—

(i) the area to which the Welsh franchising scheme relates, or

(ii) a part of that area,

provision revoking the Welsh partnership scheme, or

(b) in any other case, provision varying the Welsh partnership scheme so that it ceases to relate to any part of the area to which the Welsh franchising scheme relates.

(7) Not later than 14 days after the date on which the scheme is made, the authority or authorities must—

(a) give notice of the scheme in such manner as the authority or authorities consider appropriate for bringing it to the attention of persons in the area to which it relates, and

(b) send a copy of the scheme to a traffic commissioner.

(8) The notice must state—

(a) that the scheme has been made, and

(b) where a copy of the scheme may be inspected.

(9) The Welsh Ministers may by regulations amend subsection (4) to change the period mentioned for the time being in that subsection.

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<p><b>127 Making of scheme</b></p> <p>(1) <del>The authority or authorities who proposed the scheme may make it—</del></p> <p style="padding-left: 40px;"><del>(a) [repealed]</del></p> <p style="padding-left: 40px;"><del>(b) in accordance with the requirements of subsection (1B).</del></p> <p><del>(1A) [repealed]</del></p> <p><del>(1B) If—</del></p> <p style="padding-left: 40px;"><del>(a) [repealed]</del></p> <p style="padding-left: 40px;"><del>(b) the Welsh Ministers approve the scheme under section 126,</del></p> <p><del>the authority or authorities who proposed it may make it, as approved, at any time not later than 6 months after the date of the approval.]</del></p> <p>(2) <del>The scheme must specify—</del></p> <p style="padding-left: 40px;"><del>(a) the area to which it relates,</del></p> <p style="padding-left: 40px;"><del>(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</del></p> <p style="padding-left: 40px;"><del>(c) the period for which it is to remain in operation, which must not be more than ten years from the earliest date on which the scheme or any of its provisions comes into operation.</del></p> <p><del>(2A) No date that is to be specified under subsection (2)(b) may be earlier than 6 months after the scheme is made.</del></p> <p>(3) <del>The scheme must outline—</del></p> <p style="padding-left: 40px;"><del>(a) the local services which are to be provided under quality contracts, and</del></p> <p style="padding-left: 40px;"><del>(b) the features of the proposed invitations to tender for quality contracts.</del></p>	<p><i>Section 15</i></p>
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<p><del>(3A) The scheme must specify the date or dates on which it is proposed that the authority or authorities will issue invitations to tender for the provision of any services to which the scheme relates (see section 130).</del></p> <p><del>(4) The scheme may provide that—</del></p> <p style="padding-left: 40px;"><del>(a) local services specified in it, or</del></p> <p style="padding-left: 40px;"><del>(b) local services of a class specified in it,</del></p> <p><del>are to be excluded from the scheme, subject to such conditions (if any) as may be specified in it.</del></p> <p><del>(5) The scheme may contain such ancillary provisions as the authority or authorities think fit.</del></p> <p><del>(6) The scheme may include provision—</del></p> <p style="padding-left: 40px;"><del>(a) varying or revoking any quality partnership scheme which only relates to the area of the authority, or combined area of the authorities, by which the scheme is made, or</del></p> <p style="padding-left: 40px;"><del>(b) varying any other quality partnership scheme to the extent that it so relates.</del></p> <p><del>(7) If provision is made under subsection (6)(b) to vary the quality partnership scheme so that it no longer so relates, such of the authorities by which it was made as did not make the quality contracts scheme—</del></p> <p style="padding-left: 40px;"><del>(a) may (subject to the provision so made) vary it if they decide that it is appropriate to do so, or</del></p> <p style="padding-left: 40px;"><del>(b) may revoke it if all persons who have given an undertaking to provide a service to a standard specified in the scheme consent to the revocation of the scheme (which consent must not be unreasonably withheld);</del></p> <p><del>and subsections (3) and (4) of section 120 apply to a variation or revocation under this subsection.</del></p> <p><del>(8) Not later than 14 days after the date on which the scheme is made, the authority or authorities must—</del></p> <p style="padding-left: 40px;"><del>(a) give notice in at least one newspaper circulating in the area to which the scheme relates, and</del></p>	<p><i>Section 16</i></p>
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<p><del>(b) send a copy of the scheme to [a traffic commissioner].</del></p> <p>(9) —The notice must state—</p> <p><del>(a) that the scheme has been made,</del></p> <p><del>(b) where a copy of the scheme may be inspected, and</del></p> <p><del>(c) the date or dates on which the scheme, or the different provisions of the scheme, are to come into operation.</del></p> <p><del>(10) —The appropriate national authority may by order vary any of the periods mentioned in subsection (1B) or (2A).</del></p> <p><b>127A</b> [repealed]</p> <p><b>127B</b> [repealed]</p> <p><b>128 Postponement of <u>local franchising contracts</u> scheme</b></p> <p><u>(1) An authority or authorities that have made a Welsh franchising scheme may decide that the date or dates specified under section 127(2)(c) or 127(3)(b) is or are to be postponed by such period, not exceeding 6 months, as they think fit.</u></p> <p><del>(1) —If it appears to the authority or authorities who made the scheme appropriate to do so, they may decide that the date on which the scheme, or any particular provision of the scheme, would otherwise come into operation, or come into operation for any particular purpose or purposes, shall be postponed by such period as they think fit (subject to any provision of regulations made under subsection (4)).</del></p> <p><u>(2) Before making such a decision they must consult all operators of local services who would, in their opinion, be affected by the decision.</u></p> <p>(2A) The date or dates specified under section 127(2)(c) or 127(3)(b) may be postponed under subsection (1) once only.</p>	<p><i>Section 16</i></p>
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<p>(3) Not later than 14 days after the date on which any such decision is made they must give notice of the decision—</p> <ul style="list-style-type: none"><li>(a) <u>in such manner as they consider appropriate for bringing it to the attention of persons</u> <del>in at least one newspaper circulating</del> in the area to which the scheme relates,</li><li>(b) to all operators of local services who would, in their opinion, be affected by the decision, and</li><li>(c) to a traffic commissioner.</li></ul> <p><u>(3A) The notice must include a statement of the reasons for the decision.</u></p> <p><u>(4) The Welsh Ministers may by regulations amend the maximum period of postponement specified in subsection (1).</u></p> <p><del>(4) The appropriate national authority may by regulations make provision with respect to postponements under subsection (1).</del></p> <p><del>(5) The regulations may in particular make provision—</del></p> <ul style="list-style-type: none"><li><del>(a) as to the maximum period of postponements, and</del></li><li><del>(b) requiring authorities to re-issue invitations to tender in accordance with section 130.</del></li></ul> <p><b><u>129 Effect of local franchise contracts: registration requirements and provision of services</u></b></p> <p><u>(1) Where a Welsh franchising scheme has been made, subsection (2) applies as soon as the effective time of any local franchise contract to which the scheme relates is reached, subject to subsection (3).</u></p> <p><u>(2) No local service may be provided in the area to which the scheme relates unless—</u></p> <ul style="list-style-type: none"><li><u>(a) it is provided under a local franchise contract,</u></li><li><u>(b) it is an interim service (see section 132C), or</u></li><li><u>(c) it is a local service registered under section 6 of the Transport Act 1985 by virtue of section 6B of that Act.</u></li></ul>	<p>Section 16</p>
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<p><u>(3) If the scheme provides for scheme sub-areas, subsection (2) applies in relation to each scheme sub-area as soon as the effective time of any local franchise contract for the provision of a local service in that scheme sub-area is reached; and the reference in subsection (2) to the area to which the scheme relates is to be read as a reference to the scheme sub-areas.</u></p> <p><u>(4) Subsection (2) does not apply in relation to—</u></p> <p style="padding-left: 40px;"><u>(a) services excluded from the scheme as a result of section 127(5), or</u></p> <p style="padding-left: 40px;"><u>(b) services provided under a community bus permit.</u></p> <p><u>(5) The effective time, in relation to a local franchise contract, is the beginning of the day on which a local service may first be provided under the contract (see sections 130(4) and 131).</u></p> <p><b>129 Effect of scheme</b></p> <p><del>(1) During any period in which the scheme, or (in the case of a scheme which provides for different provisions to come into operation on different dates) any provision of the scheme, is in operation—</del></p> <p style="padding-left: 40px;"><del>(a) sections 6 to 9 of the Transport Act 1985 (registration of local services) do not have effect in relation to the area to which it relates the area to which the scheme, or that provision, relates, and</del></p> <p style="padding-left: 40px;"><del>(b) no local service shall be provided in that area (if there is a stopping place for the service in that area) unless it is provided under a quality contract or is an interim service (see section 132C).</del></p> <p><del>2) But subsection (1) does not apply—</del></p> <p style="padding-left: 40px;"><del>(a) so as to prevent the application of sections 6 to 9 of the Transport Act 1985 in relation to any service by virtue or in consequence of section 6B of that Act (application for registration or variation where quality contracts scheme in force),</del></p> <p style="padding-left: 40px;"><del>b) so as to prevent the provision of any service registered under section 6 of the Transport Act 1985 by virtue of section 6B of that Act, or</del></p>	<p>Section 16</p>
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<p><del>(c) in relation to services which are excluded from the scheme as a result of any provision of the scheme made in accordance with section 127(4).</del></p> <p><del>(3) Where the exclusion of a local service from the scheme is made subject to conditions as a result of such a provision, those conditions are to be treated, during any period in which the scheme is in operation, as if they were prescribed particulars registered under section 6 of the Transport Act 1985 of the service concerned.</del></p> <p><del>(4) The authority or authorities must invite tenders in accordance with section 130 not later than—</del></p> <p style="padding-left: 40px;"><del>(a) three months, or</del></p> <p style="padding-left: 40px;"><del>(b) such other period as the appropriate national authority may by order specify,</del></p> <p><del>after the scheme has been made.</del></p>	<p><i>Section 16</i></p>
<p><b><u>130 Local franchise contracts</u></b></p> <p><u>(1) If two or more authorities have made a Welsh franchising scheme jointly, a local franchise contract for a local service specified in the scheme is to be entered into by the authorities acting jointly.</u></p> <p><u>(2) An authority or authorities may not enter into a local franchise contract with a person unless the person holds—</u></p> <p style="padding-left: 40px;"><u>(a) a PSV operator's licence, or</u></p> <p style="padding-left: 40px;"><u>(b) a community bus permit.</u></p> <p><u>(3) But subsection (2)(a) does not include a licence to which a condition is attached under section 26 of the Transport Act 1985 (power of traffic commissioner to attach conditions to licences) prohibiting the holder from using vehicles under the licence to provide local services of all descriptions or of any description to which the condition relates.</u></p> <p><u>(4) A person may not provide a local service under a local franchise contract until the expiry of the period that, under the scheme, must expire between the making of the contract and the provision of the local service under the contract (see section 127(2)(d) and section 127(3)(c)).</u></p>	<p><i>Section 16</i></p>



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<p><u>(5) After entering into a local franchise contract, the authority or authorities must give notice of the contract to—</u></p> <p><u>(a) a traffic commissioner, and</u></p> <p><u>(b) all operators of local services who are, in the opinion of the authority or authorities, likely to be affected by the contract.</u></p> <p><u>(6) The notice must set out—</u></p> <p><u>(a) the local services to be provided in accordance with the contract, and</u></p> <p><u>(b) the duration of the contract.</u></p> <p><u>(7) The notice must be given within a period of 14 days beginning with the date on which the local franchise contract in question is entered into.</u></p> <p><u>(8) This section is subject to section 131 (exceptions to section 130).</u></p> <p><b><u>130 Tendering for quality contracts</u></b></p> <p><del>(1) The authority, or the authorities acting jointly, must invite tenders for the provision of services to which the scheme, or each provision of the scheme, relates for such period and on such basis as may be specified in the invitation to tender.</del></p> <p><del>(2) The period specified must not exceed 10 years.</del></p> <p><del>(3) Subject to subsection (4), such an invitation—</del></p> <p><del>(a) must be issued generally, in such manner as the authority or authorities consider appropriate for bringing it to the attention of persons who may be interested, and</del></p> <p><del>(b) must also be issued individually to all persons who have given to that authority or any of those authorities a written notice indicating that they wish to receive invitations to tender for the provision of local services of a description to which the invitation relates.</del></p>	<p>Section 17</p>
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- ~~(4) — Such a notice must specify the address to which such an invitation is to be directed, and it shall be sufficient for the purposes of subsection (3)(b) if the authority or authorities send the invitation to the person giving such a notice at the address so specified.~~
- ~~(5) — The authority or authorities may only accept a tender submitted by a person who is the holder of either—~~
- ~~(a) a PSV operator's licence, or~~
  - ~~(b) a community bus permit.~~
- ~~(6) — But subsection (5)(a) does not include a licence to which a condition is attached under section 26 of the Transport Act 1985 (power of traffic commissioner to attach conditions to licences) prohibiting the holder from using vehicles under the licence to provide local services of all descriptions or of any description to which the invitation relates.~~
- ~~(7) — After entering into a quality contract, the authority or authorities must give notice to a traffic commissioner of—~~
- ~~(a) the local services to be provided in accordance with the contract, and~~
  - ~~(b) the duration of the contract.~~
- ~~(8) — The appropriate national authority may by regulations make provision requiring authorities to publish prescribed information about tenders submitted to them in accordance with this section or about their reasons for entering into particular quality contracts.~~

### **131 Exceptions to section 130**

- (1) A local franchise contract may specify as the time when a local service may first be provided under the contract a time before the expiry of such period as is described in section 130(4), and that service may be provided from that time, if the authority or authorities determine that action is urgently required for the purpose of—
- (a) maintaining an existing service,
  - (b) securing the provision of a service in place of a service which has ceased to operate, or

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(c) securing the provision of a service to meet any public transport requirement which has arisen unexpectedly and ought in the opinion of the authority to be met without delay.

(2) A determination under subsection (1) must be made at or before the time that the authority or authorities enter into the contract.

**~~131 Exceptions from section 130~~**

~~(1) Section 130 does not apply in any case where it appears to the authority or authorities that action is urgently required for the purpose of—~~

~~(a) maintaining an existing service,~~

~~(b) securing the provision of a service in place of a service which has ceased to operate, or~~

~~(c) securing the provision of a service to meet any public transport requirement which has arisen unexpectedly and ought in the opinion of the authority to be met without delay.~~

~~(2) The appropriate national authority may by regulations make provision for further exceptions from section 130, including in particular with respect to—~~

~~(a) cases in which no tender, or no acceptable tender, is submitted in response to an invitation to tender issued under section 130(1) or under any provision made by virtue of subsection (5)(a), and~~

~~(b) agreements of a prescribed description.~~

~~(3) The appropriate national authority may make regulations fixing the maximum duration of a quality contract entered into under subsection (1) or under any provision made by virtue of subsection (2).~~

~~(4) The appropriate national authority may by regulations make further provision with respect to exceptions from section 130.~~

~~(5) Regulations under subsection (4) may in particular—~~

~~(a) require authorities to invite tenders for the provision of a service which is the subject of a quality contract made under subsection (1) or under any provision made by virtue of subsection (2), and~~

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~~(b) require authorities to publish prescribed information (including as to their reasons for entering into particular quality contracts) or to give notices.~~

**~~131A Continuation of schemes for further periods~~**

~~(1) If it appears to them appropriate to do so, the authority or authorities who made a quality contracts 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, unless the proposal that the scheme should continue is an exempt continuation proposal (see section 131B), comply with the requirements of—~~

~~(a) section 124(2)(b) (approval by Welsh Ministers)~~

~~(b) [repealed]~~

~~(3) Section 125 applies in relation to the continuation of a scheme under this section as it applies in relation to the making of a scheme, but with the following modifications—~~

~~(a) any reference to a proposal to make a scheme is to be read as a reference to a proposal for the continuation of a scheme,~~

~~(b) any reference to the proposed scheme is to be read as a reference to the scheme as proposed to continue in operation,~~

~~and with the further modifications specified in subsections (4) and (5), but this is subject to such modifications or exclusions as may be prescribed by regulations under section 133.~~

~~(4) [repealed]~~

~~(5) The consultation document that is to be published by virtue of section 125(1)(a), as applied by subsection (3), must (instead of complying with section 125(1A)) 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 (c) of section 124(1) up to the date of the report;~~

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<p><del>(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;</del></p> <p><del>(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;</del></p> <p><del>(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;</del></p> <p><del>(f) if the authority or authorities consider that the proposal for the scheme to continue is an exempt continuation proposal, a statement of that fact;</del></p> <p><del>(g) a statement of how any costs which the authority or authorities expect to incur under the scheme are to be defrayed;</del></p> <p><del>(h) a declaration by the chief finance officer or officers of the authority or authorities that, after taking into account—</del></p> <p style="padding-left: 40px;"><del>(i) any estimated income from fares, and</del></p> <p style="padding-left: 40px;"><del>(ii) any grants from Ministers of the Crown or government departments,</del></p> <p><del>any remaining funding required to continue the scheme in operation can be provided from other resources available to the authority or authorities;</del></p> <p><del>(i) the date by which any written responses to the consultation must be submitted to the authority or authorities.</del></p> <p><del>(6) — For the purposes of this section—</del></p> <p style="padding-left: 40px;"><del>(a) subsection (1B) of section 125 (matters to be included in the description of the proposed scheme) applies for the purposes of subsection (5)(a) as it applies for the purposes of subsection (1A)(a) of that section, and</del></p> <p style="padding-left: 40px;"><del>(b) subsection (1C) of that section (meaning of “chief finance officer”) applies for the purposes of subsection (5)(h) as it applies for the purposes of subsection (1A)(e) of that section.</del></p>	
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<p><del>(7) — The consultation document mentioned in subsection (5) must be published and supplied in accordance with section 125(1)(a) and (b) (as applied by this section) not less than 12 months before the scheme's expiry date.</del></p> <p><del>(8) — For the purposes of this section, a scheme's “expiry date” is the later of the following dates—</del></p> <ul style="list-style-type: none"> <li><del>(a) the end of the period specified in the scheme in accordance with section 127(2)(c),</del></li> <li><del>(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.</del></li> </ul> <p><del>(9) — The period for which a scheme continues in operation by virtue of a decision under subsection (1) may begin—</del></p> <ul style="list-style-type: none"> <li><del>(a) on such day falling before, on, or immediately after the scheme's expiry date as the authority or authorities decide, or</del></li> <li><del>(b) if the circumstances are such that the continuation of the scheme cannot begin on a day falling within paragraph (a), on such later day as the authority or authorities decide in accordance with regulations made by the appropriate national authority for the purposes of such circumstances.</del></li> </ul> <p><del>(10) — If the authority or authorities publish and supply a consultation document in accordance with subsection (7), the scheme remains in operation (without any modifications proposed by them under subsection (1)) until—</del></p> <ul style="list-style-type: none"> <li><del>(a) in a case where the scheme is to continue in operation for a further period, the day before the beginning of that period, or</del></li> <li><del>(b) in any other case, the scheme's expiry date.</del></li> </ul> <p><del>(11) — Section 130 (tendering) applies to a scheme that continues in operation under this section (whether or not the proposal for the scheme to continue in operation was an exempt continuation proposal) but subject to regulations made by the appropriate national authority under section 133(3).</del></p>	<p><i>Section 17</i></p>
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**131B Meaning of “exempt continuation proposal”**

(1) — For the purposes of this Part a proposal that a quality contracts scheme should continue in operation is an “exempt continuation proposal” if—

- (a) any one or more of Conditions 1 to 3 are met and Conditions A and B are met, or
- (b) the circumstances are as prescribed in regulations made by the appropriate national authority.

(2) — Condition 1 is that it is not proposed that the area to which the continuation scheme relates is to be greater than the area to which the existing scheme relates.

(3) — Condition 2 is that it is proposed that the area to which the continuation scheme relates is to be greater than the area to which the existing scheme relates, but—

- (a) the additional area proposed to be included falls wholly within the area or combined area of the authority or authorities proposing the continuation of the scheme, and
- (b) it is not proposed that under the continuation scheme any descriptions of local services are to be provided under quality contracts in addition to the descriptions of local services so provided under the existing scheme.

(4) — Condition 3 is that during the period while the existing scheme has been in force—

- (a) there has been a change in the area of the authority, or of any of the authorities, that last made or continued the scheme, or
- (b) a different authority has become the local transport authority for some or all of the area to which the scheme relates,

but it is not proposed that under the continuation scheme any descriptions of local services are to be provided under quality contracts in addition to the descriptions of local services so provided under the existing scheme.

(5) — Condition A is that it is not proposed under the continuation scheme that any local services which, immediately before the coming into force of that scheme, were unregulated services are under the continuation scheme to be provided under quality contracts.

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<p><del>(6) Condition B is that it is not proposed under the continuation scheme that any services which, immediately before the coming into force of that scheme, were excluded services in the case of the existing scheme are not to be excluded services in the case of the continuation scheme.</del></p> <p><del>(7) In this section—</del></p> <p><del>“the continuation scheme” means the scheme as proposed to continue in operation;</del></p> <p><del>“excluded services”, in the case of any quality contracts scheme, means any local services, or class of local services, which are excluded from the scheme by virtue of section 127(4);</del></p> <p><del>“the existing scheme” means—</del></p> <ul style="list-style-type: none"> <li><del>(a) the scheme as last continued or varied, or</del></li> <li><del>(b) if the scheme has not previously been continued or varied, the scheme as originally made;</del></li> </ul> <p><del>“unregulated services” means any local services provided otherwise than—</del></p> <ul style="list-style-type: none"> <li><del>(a) under a contract with one or more local transport authorities, or</del></li> <li><del>(b) by an authority or authorities acting under section 132C(2) (power to provide interim services in exceptional circumstances);</del></li> </ul> <p><del>and any reference to the coming into force of a scheme includes a reference to the coming into force of any particular provision of it.</del></p> <p><del>(8) See also section 131E (which makes provision about appeals relating to exempt continuation proposals).</del></p> <p><b>131C [repealed]</b></p> <p><b>131D Continuation of schemes for areas in Wales: procedure</b></p> <p><del>(1) This section has effect with respect to the continuation in operation under section 131A (or the proposed continuation in operation under that section) of a quality contracts scheme for an area in Wales (whether with or without modifications).</del></p>	<p><i>Section 17</i></p>
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~~(2) Subsections (2) and (3) to (9) of section 127 apply in relation to the continuation of the scheme as they apply in relation to the making of a scheme, but with the modifications in subsection (4).~~

~~(3) Unless the proposal for the continuation of the scheme—~~

~~(a) is an exempt continuation proposal, or~~

~~(b) in a case where the authority or authorities have decided that the scheme should continue, was such a proposal,~~

~~subsections (1)(b) and (1B) of section 127 also apply in relation to the continuation of the scheme, and with the modifications in subsection (4).~~

~~(4) The modifications are—~~

~~(a) any reference to proposing to make a scheme is to be read as a reference to proposing the continuation of a scheme,~~

~~(b) any reference to making a scheme is to be read as a reference to deciding that a scheme should continue in operation,~~

~~(c) any reference to the proposed scheme is to be read as a reference to the scheme as proposed to continue in operation,~~

~~(d) the references in section 127(2)(b) and (9)(c) to the date or dates on which the scheme is, or provisions of the scheme are, to come into operation are to be read as references to the day decided by the authority or authorities by virtue of section 131A(9),~~

~~but further or different modifications, or exclusions, may also be made by regulations under section 133(3)(b).~~

~~(5) Subsection (6) applies in any case where—~~

~~(a) an authority or authorities propose that a quality contracts scheme for an area in Wales should continue in operation (with or without modification) under section 131A, and~~

~~(b) the proposal is not an exempt continuation proposal.~~

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~~(6) In any such case, section 126 (approval by Welsh Ministers of proposed schemes for areas in Wales) applies in relation to a proposal for the continuation of a scheme as it applies in relation to a proposal to make a scheme, but with the modifications set out in subsection (7).~~

~~(7) The modifications are—~~

- ~~(a) any reference to a proposed scheme is to be read as a reference to a proposal for a scheme to continue in operation under section 131A;~~
- ~~(b) the reference in section 126(2)(a) to wishing to make a scheme is to be read as a reference to wishing that a scheme should continue in operation;~~
- ~~(c) any reference to any conditions set out in any paragraphs of section 124(1) being met is to be read as a reference to those conditions being met by the scheme as proposed to continue in operation (with any proposed modifications);~~
- ~~(d) any reference to section 125 or any provision of that section is to be read as a reference to that section or provision as it has effect by virtue of section 131A.~~

~~(8) If, acting on the basis that the proposal for the continuation of the scheme is an exempt continuation proposal, the authority or authorities decide that the scheme is to continue, they must—~~

- ~~(a) publish in such manner as they think fit, and within the time allowed, a notice announcing their decision on the proposal;~~
- ~~(b) supply a copy of that notice to each of the persons mentioned in section 125(3) as it applies by virtue of section 131A, and~~
- ~~(c) give notice of the decision in accordance with section 127(8) and (9).~~

~~(9) For the purposes of subsection (8)(a), the time allowed is the period of 6 months following the date of publication of the consultation document required by section 125(1)(a) as it applies by virtue of section 131A.~~

**~~131E Appeals where proposed continuation considered exempt~~**

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<p><del>(1) This section applies where an authority or authorities who propose that a quality contracts scheme should continue in operation (with or without modifications) under section 131A—</del></p> <ul style="list-style-type: none"> <li><del>(a) decide that the proposal is an exempt continuation proposal, and</del></li> <li><del>(b) acting on the basis of that decision, decide that the scheme should so continue in operation.</del></li> </ul> <p><del>(2) Any person falling within subsection (3) may appeal to the Upper Tribunal against—</del></p> <ul style="list-style-type: none"> <li><del>(a) the decision of the authority or authorities that the proposal is an exempt continuation proposal, or</del></li> <li><del>(b) the decision of the authority or authorities that the scheme is to continue in operation (with or without any modifications).</del></li> </ul> <p><del>(3) The persons are—</del></p> <ul style="list-style-type: none"> <li><del>(a) any person who was consulted under section 125(3) (as it applies by virtue of section 131A in a case where the proposal is an exempt proposal);</del></li> <li><del>(b) any person who was not so consulted, but who, in the opinion of the [Upper] Tribunal, ought to have been so consulted.</del></li> </ul> <p><del>(4) An appeal under this section may be—</del></p> <ul style="list-style-type: none"> <li><del>(a) on a point of law, or</del></li> <li><del>(b) on a question of fact.</del></li> </ul> <p><del>(5) On an appeal under this section the [Upper] Tribunal shall have power—</del></p> <ul style="list-style-type: none"> <li><del>(a) to make such order as they think fit, or</del></li> <li><del>(b) to remit any matter (with or without directions) to the authority or authorities for their consideration or determination or for such other purposes as the Tribunal may direct.</del></li> </ul> <p><del>(6) The powers of the Tribunal on an appeal under this section include power to do any one or more of the following—</del></p> <ul style="list-style-type: none"> <li><del>(a) dismiss the appeal in whole or in part,</del></li> </ul>	<p><i>Section 17</i></p>
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<p><del>(b) remit the matter to the authority or authorities with one or more directions under subsection (7);</del></p> <p><del>(c) direct the authority or authorities to vary the scheme, as it continues or is to continue in operation, in such manner as the Tribunal may specify in the direction (but see subsection (8));</del></p> <p><del>(d) quash the whole or any part of the decision of the authority or authorities (but see subsection (9)).</del></p> <p><del>(7) A direction under this subsection is a direction for the authority or authorities to do each of the following—</del></p> <p><del>(a) consider or reconsider such matters as may be specified in the direction;</del></p> <p><del>(b) as respects those matters, consult or further consult the persons mentioned in section 125(3) as it applies by virtue of section 131A in a case where the proposal is an exempt continuation proposal;</del></p> <p><del>(c) make such variations of the scheme, as it continues or is to continue in operation, as may in consequence appear appropriate to the authority or authorities.</del></p> <p><del>(8) The Tribunal may give a direction under this section to vary a scheme by reducing the area to which it relates only if they are of the opinion that the conditions in section 132(3) are met.</del></p> <p><del>(9) The power of the Tribunal under this section to quash a decision of an authority or authorities that a scheme should continue in operation under section 131A is exercisable only if the Tribunal are of the opinion that there are defects in the scheme which are not capable of being remedied by varying the scheme under or by virtue of subsection (6)(b) or (c).</del></p> <p><del>(10) If, on an appeal under paragraph (a) or (b) of subsection (2), the Tribunal decide that the proposal for the scheme to continue in operation was not an exempt continuation proposal—</del></p> <p><del>(a) they must allow the appeal to that extent;</del></p> <p><del>(b) they must remit the matter to the authority or authorities, with or without directions; and</del></p> <p><del>(c) subsections (11) to (14) have effect.</del></p>	<p><i>Section 17</i></p>
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~~(11) The directions that the Tribunal may give under this section include—~~

- ~~(a) directions to take any action specified in the directions for the purpose of remedying any failure to comply with requirements of this Part that have effect where a proposal for continuation under section 131A is not an exempt continuation proposal,~~
- ~~(b) directions to make variations specified in the directions for the purpose of securing that the condition in paragraph (a) or (b) of subsection (1) of section 131B (meaning of “exempt continuation proposal”) is met in the case of the scheme,~~
- ~~(c) directions authorising the scheme to continue in operation temporarily, with or without variations, for a period specified or described in the directions, but subject to compliance with conditions as to the time within which any particular action specified in directions under this section is to be taken.~~

~~(12) Where the Tribunal give directions falling within subsection (11), they may also make provision in the order dispensing with the need to comply with such procedural requirements imposed by or under this Part as they may specify in the order.~~

~~(13) The Tribunal may not make any order which has the effect of—~~

- ~~(a) giving approval under section 126 as it applies by virtue of section 131D, or~~
- ~~(b) dispensing with the need for any such approval,~~

~~but this is without prejudice to the temporary provision that may be made in directions falling within subsection (11)(c).~~

~~(14) The appropriate national authority may make regulations with respect to the procedure to be followed in relation to a scheme in cases where the Tribunal decide that the proposal for continuation under section 131A was not an exempt continuation proposal.~~

### **131F Review of scheme**

**(1) Where an authority or authorities have made a Welsh franchising scheme, they must review the effectiveness of the scheme—**

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<p><u>(a) at least once in the period of 3 years beginning with the day on which the scheme was made, and</u></p> <p><u>(b) subsequently, at least once in each period of 3 years beginning with the day on which the previous review is concluded.</u></p> <p><u>(2) In conducting a review under subsection (1), the authority or authorities must consider whether the scheme continues to contribute to the implementation of the policies mentioned in section 124A(3).</u></p> <p><u>(3) The authority or authorities must publish a report of the review.</u></p> <p><b>131F</b> [repealed]</p> <p><b><u>132 Variation of scheme</u></b></p> <p><u>(1) An authority or authorities operating a Welsh franchising scheme may vary it.</u></p> <p><u>(2) If the authority or authorities decide to vary the scheme, they must—</u></p> <p><u>(a) publish a notice of the decision, and</u></p> <p><u>(b) give notice of the decision to a traffic commissioner.</u></p> <p><u>(3) The notice of the decision must state the date on which the variations of the scheme are to have effect.</u></p> <p><u>(4) That date must fall after the period of six months beginning with the date on which notice of the decision is published.</u></p> <p><u>(5) The notice must be published, and be given to a traffic commissioner, within the period of 14 days beginning with the date on which the decision was made.</u></p> <p><u>(6) The variation of a scheme is subject to the same procedure as the making of a scheme except that—</u></p> <p><u>(a) the procedure may be modified or excluded in its application to the variation of a scheme by regulations under section 133,</u></p>	<p><i>Section 17</i></p>
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<p><u>(b) sections 124A, 124B, and 124C(3)(i) do not apply, and</u></p> <p><u>(c) section 124D(2) does not apply.</u></p> <p><u>(7) If the variation of a Welsh franchising scheme would involve adding an area to the area to which the scheme relates, subsection (6) has effect in relation to the variation but without subsection (6)(b).</u></p> <p><b><del>132 Variation or revocation of scheme</del></b></p> <p><del>(1) The authority or authorities who made the scheme (other than any to whose area the scheme no longer relates) may vary it by—</del></p> <p style="padding-left: 40px;"><del>(a) increasing the area to which it relates (to no greater than the whole of their area or combined area) or adding to the description of local services which are to be provided under quality contracts,</del></p> <p style="padding-left: 40px;"><del>(b) reducing that area or reducing the description of services, or</del></p> <p style="padding-left: 40px;"><del>(c) providing for new exclusions from the scheme or for the variation or revocation of existing exclusions.</del></p> <p><del>(2) The scheme may not be varied under subsection (1)(a) unless the conditions set out in subsection (1)(a) and (b) [subsection (1)(a) to (c)] of section 124 are met with respect to the scheme as varied.</del></p> <p><del>(3) The scheme may not be varied under subsection (1)(b) unless the relevant conditions—</del></p> <p style="padding-left: 40px;"><del>(a) are no longer met with respect to it, but</del></p> <p style="padding-left: 40px;"><del>(b) are met with respect to the scheme as varied.</del></p> <p><del>(4) The authority or authorities who made the scheme (other than any to whose area the scheme no longer relates) may revoke the scheme—</del></p> <p style="padding-left: 40px;"><del>(a) if [the relevant conditions are no longer met with respect to it, or</del></p> <p style="padding-left: 40px;"><del>(aa) if they consider that those conditions would no longer be met with respect to it if they were to act in accordance with a direction given by the Upper Tribunal under this Part, or</del></p>	<p style="text-align: center;">Section 17</p>
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~~(b) if they and one or more other authorities make a quality contracts scheme covering the whole or part of the area to which it relates.~~

~~(4A) In subsections (3) and (4) “the relevant conditions” means—~~

~~(a) in the case of a scheme made under section 124(1) and not subsequently continued in operation under section 131A or varied under subsection (1)(a) of this section, the conditions set out in section 124(1)(a) and (b) 124(1)(a) to (e), and;~~

~~(b) [repealed]~~

~~(c) in the case of a scheme that has been continued in operation under section 131A or varied under subsection (1)(a) of this section, the conditions by reference to which it was last so continued in operation or varied.~~

~~(5) The variation or revocation of a scheme under subsection (1) or (4) is subject to the provisions of—~~

~~(a) [repealed]~~

~~(b) [repealed]~~

~~(c) [repealed]~~

~~(d) subsection (9) (areas in Wales),~~

~~except to the extent that section 132B (exemption for specific variations directed by [Upper] Tribunal on appeal) otherwise provides.~~

~~(6) [repealed]~~

~~(7) [repealed]~~

~~(8) [repealed]~~

~~(9) The variation or revocation of a scheme for an area in Wales—~~

~~(a) requires the approval of the Welsh Ministers, except in the case of a variation which is an exempt variation, and~~



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~~(b) is subject to the same procedure as the making of the scheme, except to the extent that that procedure is modified or excluded by regulations made by the Welsh Ministers under section 133.~~

~~(10) Section 130 (tendering) applies to a varied scheme (whether or not the variation is an exempt variation) but subject to regulations made by the appropriate national authority under section 133(3).~~

~~(11) A variation of a scheme is an exempt variation for the purposes of this section if the variation is—~~

~~(a) a reduction in the area to which the scheme relates,~~

~~(b) a reduction in the descriptions of services which are to be provided under quality contracts,~~  
~~or~~

~~(c) the provision of new exclusions from the scheme,~~

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

~~(12) The appropriate national authority may by regulations provide that in prescribed circumstances quality contracts schemes may be revoked by that authority before coming into operation.~~

### **132ZA Revocation of scheme**

(1) An authority or authorities operating a Welsh franchising scheme may revoke it.

(2) The authority or authorities may revoke the scheme only if they are satisfied that—

(a) local services in the area to which the scheme relates are likely to be better if the scheme did not have effect,

(b) continuing with the scheme is likely to cause financial difficulties for the authority or authorities, or

(c) the burdens of continuing with the scheme are likely to outweigh the benefits of doing so.

(3) If the authority or authorities decide to revoke the scheme, the authority or authorities must—

(a) publish a notice of the decision, and

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(b) give notice of the decision to a traffic commissioner.

(4) The notice must state the date on which the revocation is to have effect.

(5) The date of the revocation must fall after a period of six months beginning with the date on which notice of the decision is published.

(6) The notice must be published, and notice must be given to a traffic commissioner, within a period of 14 days beginning with the date on which the decision was made.

(7) The revocation of a scheme is subject to the same procedure as the making of a scheme except that—

- (a) the procedure may be modified or excluded in its application to the revocation of a scheme by regulations under section 133, and
- (b) section 124D(2) does not apply.

**~~132A Appeals where proposed variation considered exempt~~**

~~(1) This section applies where an authority or authorities who propose to vary a quality contracts scheme under section 132—~~

- ~~(a) decide that the proposal is an exempt variation for the purposes of that section, and~~
- ~~(b) acting on the basis of that decision, decide to vary the scheme under that section.~~

~~(2) Any person falling within subsection (3) may appeal to the Upper Tribunal against—~~

- ~~(a) the decision of the authority or authorities that the variation is an exempt variation for the purposes of section 132, or~~
- ~~(b) the decision of the authority or authorities as to the variation of the scheme under that section.~~

~~(3) The persons are—~~

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<p><del>(a) any person who was consulted under section 125(3) (as it applies by virtue of subsection (8) or, as the case may be, (9))(b) of section 132 in a case where the variation is an exempt variation for the purposes of section 132),</del></p> <p><del>(b) any person who was not so consulted, but who, in the opinion of the [Upper] Tribunal, ought to have been so consulted.</del></p> <p><del>(4) An appeal under this section may be—</del></p> <p><del>(a) on a point of law, or</del></p> <p><del>(b) on a question of fact.</del></p> <p><del>(5) On an appeal under this section the Upper Tribunal shall have power—</del></p> <p><del>(a) to make such order as they think fit, or</del></p> <p><del>(b) to remit any matter (with or without directions) to the authority or authorities for their consideration or determination or for such other purposes as the Tribunal may direct.</del></p> <p><del>(6) The powers of the Tribunal on an appeal under this section include power to do any one or more of the following—</del></p> <p><del>(a) dismiss the appeal in whole or in part,</del></p> <p><del>(b) remit the matter to the authority or authorities with one or more directions under subsection (7),</del></p> <p><del>(c) direct the authority or authorities to vary the scheme, to the extent of the variation made by the authority or authorities, in such manner as the Tribunal may specify in the direction (but see subsection (8)),</del></p> <p><del>(d) quash the whole or any part of the decision of the authority or authorities.</del></p> <p><del>(7) A direction under this subsection is a direction for the authority or authorities to do each of the following—</del></p> <p><del>(a) consider or reconsider such matters as may be specified in the direction,</del></p>	
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<p><del>(b) as respects those matters, consult or further consult the persons mentioned in section 125(3) (as it applies by virtue of subsection (8) or, as the case may be, (9)(b) of section 132 in a case where the variation is an exempt variation for the purposes of section 132),</del></p> <p><del>(c) make such variations of the scheme as may in consequence appear appropriate to the authority or authorities.</del></p> <p><del>(8) The Tribunal may give a direction under this section to vary a scheme by reducing the area to which the scheme relates only if they are of the opinion that the conditions in section 132(3) are met.</del></p> <p><del>(9) If, on an appeal under paragraph (a) or (b) of subsection (2), the Tribunal decide that the variation was not an exempt variation for the purposes of section 132—</del></p> <p><del>(a) they must allow the appeal to that extent,</del></p> <p><del>(b) they must remit the matter to the authority or authorities, with or without directions, and</del></p> <p><del>(c) subsections (10) to (13) have effect.</del></p> <p><del>(10) The directions that the Tribunal may give under this section include—</del></p> <p><del>(a) directions to take any action specified in the directions for the purpose of remedying any failure to comply with requirements of this Part that have effect where a proposed variation under section 132 is not an exempt variation,</del></p> <p><del>(b) directions to make variations specified in the directions for the purpose of securing that the condition in paragraph (a), (b) or (c) of section 132(11) (meaning of “exempt variation”) is met in the case of the variation,</del></p> <p><del>(c) directions authorising the scheme to continue in operation temporarily, with or without variations, for a period specified or described in the directions, but subject to compliance with conditions as to the time within which any particular action specified in directions under this section is to be taken.</del></p> <p><del>(11) Where the Tribunal give directions falling within subsection (10), they may also make provision in the order dispensing with the need to comply with such procedural requirements imposed by or under this Part as they may specify in the order.</del></p>	<p><i>Section 18</i></p>
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~~(12) The Tribunal may not make any order which has the effect of—~~

~~(a) giving approval under section 126 as it applies by virtue of section 132, or~~

~~(b) dispensing with the need for any such approval,~~

~~but this is without prejudice to the temporary provision that may be made in directions falling within subsection (10)(c).~~

~~(13) The appropriate national authority may make regulations with respect to the procedure to be followed in cases where the Tribunal decide that the variation or proposed variation was not an exempt variation for the purposes of section 132.~~

**~~132B Exemption from s 132 for specific variations directed by Tribunal~~**

~~(1) This section applies in relation to any of the following appeals—~~

~~(a) [repealed]~~

~~(b) an appeal under section 131E(2)(a) against a decision that a proposal was an exempt continuation proposal,~~

~~(c) an appeal under section 131E(2)(b) against a decision that a scheme should continue in operation,~~

~~(d) an appeal under section 131F(2) against a decision that a scheme should continue in operation,~~

~~(e) an appeal by virtue of section 132 against a decision to vary a scheme,~~

~~(f) an appeal under section 132A(2)(a) against a decision that a variation was an exempt variation for the purposes of section 132,~~

~~(g) an appeal under section 132A(2)(b) against a decision as to the variation of a scheme under section 132.~~

~~(2) Where—~~

~~(a) any such appeal is made to the Upper Tribunal, and~~

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<p><del>(b) on that appeal, the Tribunal direct the authority or authorities to vary the scheme in the manner specified by the Tribunal in the direction;</del></p> <p><del>nothing in section 132(5) to (9) (procedure for variation of scheme) applies in relation to the varying of the scheme in the manner specified in the direction, unless the Tribunal otherwise direct.</del></p> <p><del>(3) Subsection (2) is without prejudice to any right of appeal against the decision of the Upper Tribunal.</del></p> <p><b>132C Power of authorities to provide services in exceptional circumstances</b></p> <p>(1) This section applies where a person who has agreed to provide a service (“the old service”) in accordance with a <u>local franchise contract</u> <del>quality contract</del> ceases to do so before the end of the period for which the contract was intended to have effect.</p> <p><u>(2) The authority or any one of the authorities who entered into the local franchise contract may, in accordance with subsections (4) and (8) and section 132D—</u></p> <p><u>(a) provide a local service (an “interim service”) in place of the old service or any part of it;</u></p> <p><u>(b) secure the provision of such a service by another person.</u></p> <p><del>(2) The authority, or any one of the authorities, who entered into the quality contract may, in accordance with subsections (4) to (8) and section 132D, provide a local service (an “interim service”) in place of the old service or any part of it.</del></p> <p>(3) Subsection (2) has effect notwithstanding any prohibition, restriction or limitation contained in any other enactment on the power of the authority to provide local services.</p> <p>(4) <u>A person who provides</u> <del>An authority who provide</del> an interim service of any description must hold a PSV operator's licence to which no condition is attached under section 26 of the Transport Act 1985 (power of traffic commissioner to attach conditions to licence) prohibiting the <u>person</u> <del>authority</del> from using vehicles under the licence to provide services of that description.</p> <p><del>(5) Subsection (6) applies if—</del></p>	<p>Section 19</p>
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<p><del>(a) an authority provide an interim service in place of an old service or any part of an old service, and</del></p> <p><del>(b) the authority or authorities who entered into the quality contract for the provision of the old service propose to enter into a quality contract for the provision of a replacement service in place of that service or (as the case may be) that part.</del></p> <p><del>(6) The authority, or the authorities acting jointly, must invite tenders (in accordance with section 130) for the provision of the replacement service—</del></p> <p><del>(a) as soon as reasonably practicable after the authority providing the interim service begin to do so, and</del></p> <p><del>(b) in any event no later than three months after the date on which provision of the old service ceased.</del></p> <p><del>(7) But subsection (6) does not apply if the authority, or the authorities acting jointly, decide to secure the provision of the replacement service under section 131 (circumstances in which quality contracts may be entered into without inviting tenders).</del></p> <p>(8) The particulars of an interim service, or of a replacement service, need not be identical to the particulars of the old service, or that part of the old service, which it replaces.</p> <p>(9) In this section—</p> <p>“enactment” includes an enactment comprised in subordinate legislation (within the meaning of the Interpretation Act 1978);</p> <p>“interim service” has the meaning given by subsection (2);</p> <p>“the old service” has the meaning given by subsection (1);</p> <p>“replacement service” means a local service provided under a <u>local franchise contract</u> <del>quality contract</del> in place of an old service or any part of an old service.</p> <p><b>132D Period for which interim service may be provided</b></p>	<p><i>Section 19</i></p>
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<p>(1) This section applies for the purpose of determining the period for which <u>an interim</u> <del>an authority may provide an interim service which</del> is provided in place of—</p> <ul style="list-style-type: none"> <li>(a) an old service (“the relevant service”), or</li> <li>(b) part of an old service (“the relevant part”).</li> </ul> <p>(2) If the authority do not, within the period of three months beginning with the date on which provision of the relevant service ceased,—</p> <ul style="list-style-type: none"> <li>(a) enter into a <u>local franchise contract</u> <del>quality contract</del> to provide a replacement service in place of the relevant service or (as the case may be) the relevant part, <del>or</del></li> <li><del>(b) issue an invitation to tender in pursuance of section 132C(6),</del></li> </ul> <p><u>The interim service must not be provided</u> <del>the authority must not provide the interim service</del> after the end of that period.</p> <p>(3) If the authority enter into a <u>local franchise contract</u> <del>quality contract</del> to provide such a replacement service within the period mentioned in subsection (2), the authority must not provide, <u>or secure the provision of,</u> the interim service after the earlier of the following dates—</p> <ul style="list-style-type: none"> <li>(a) the date on which the replacement service is first provided;</li> <li>(b) the date falling nine months after the date on which the interim service is first provided.</li> </ul> <p><del>(4) If the authority issue invitations to tender in pursuance of section 132C(6) within the period mentioned in subsection (2) (but do not enter into a quality contract to provide such a replacement service within that period), the authority must not provide the interim service after the earlier of the following dates—</del></p> <ul style="list-style-type: none"> <li><del>(a) the date on which a replacement service is first provided in place of the relevant service or (as the case may be) the relevant part;</del></li> <li><del>(b) the date determined in accordance with subsection (5).</del></li> </ul> <p><del>(5) The date is the later of—</del></p> <ul style="list-style-type: none"> <li><del>(a) the date falling nine months after the date on which the interim service is first provided;</del></li> </ul>	<p>Section 19</p>
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~~(b) such date, not later than three months after the date mentioned in paragraph (a), as may be determined by [a traffic commissioner] on the application of the authority.~~

~~(6) A traffic commissioner may determine a date under subsection (5)(b) only if satisfied that there is a realistic prospect that, if the determination is made, a replacement service will be provided in place of the relevant service or (as the case may be) the relevant part on or before that date.~~

~~(7) Any application to a traffic commissioner under paragraph (b) of subsection (5) must be made at least one month before the date mentioned in paragraph (a) of that subsection.~~

~~(8) The authority must not make more than one application under subsection (5)(b) in respect of any interim service.~~

(9) In this section—

“interim service” and “replacement service” have the meaning given in section 132C;

“the relevant service” and “the relevant part” have the meaning given in subsection (1);

and, in any case where the authority entered into the local franchise contract ~~quality contract~~ for the provision of the relevant service jointly with one or more other authorities, references in this section to the authority entering into a local franchise contract ~~quality contract~~ for a replacement service, ~~or issuing invitations to tender for such contracts,~~ are references to those authorities acting jointly.

### **133 Regulations about schemes**

(1) The Welsh Ministers may by regulations make further provision with respect to—

(a) the procedure to be followed when making, varying or revoking Welsh franchising schemes;

(b) the local services or classes of local services which must or may be excluded from schemes;

(c) the conditions which must be, or may be, attached to such exclusions;

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<p><u>(d) such other incidental matters in connection with Welsh franchising schemes as the Welsh Ministers think appropriate.</u></p> <p><u>(2) The regulations may in particular make provision with respect to—</u></p> <p><u>(a) giving notice of proposed schemes or the proposed variation or revocation of schemes;</u></p> <p><u>(b) modifications of such proposals;</u></p> <p><u>(c) the form of schemes or variations;</u></p> <p><u>(d) giving notice of schemes which have been made or of the variation or revocation of schemes.</u></p> <p><u>(3) The Welsh Ministers may also make regulations modifying or excluding the application of provisions of this Part, so far as relating to Welsh franchising schemes, in cases where a local transport authority, or two or more local transport authorities acting jointly, do either of the following—</u></p> <p><u>(a) propose or decide to vary a scheme under section 132 or propose or decide to revoke a scheme under section 132ZA;</u></p> <p><u>(b) having varied a scheme under section 132, propose or decide to postpone a date on which a local franchise contract to provide a local service specified in the scheme may first be entered into.</u></p> <p><b><del>133 Regulations about schemes</del></b></p> <p><del>(1) The appropriate national authority may by regulations make further provision with respect to—</del></p> <p><del>(a) the procedure to be followed when making, [continuing,] varying or revoking quality contracts schemes,</del></p> <p><del>(b) the approval of schemes,</del></p> <p><del>(bb) [repealed]</del></p> <p><del>(bc) [repealed]</del></p>	<p><i>Section 20</i></p> <p><i>Schedule</i></p>
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- ~~(c) the local services or classes of local services which are to be, or may be, excluded from schemes,~~
- ~~(d) the conditions which must be, or may be, attached to such exclusions, and~~
- ~~(e) such other incidental matters in connection with quality contracts schemes as the appropriate national authority thinks fit.~~

~~(2) The regulations may in particular make provision with respect to—~~

- ~~(a) giving notice of proposed schemes or proposed continuations, variations or revocation of schemes,~~
- ~~(b) objections to such proposals,~~
- ~~(c) the holding of inquiries or hearings into objections,~~
- ~~(d) modifications of such proposals,~~
- ~~(e) the form and manner of applications for approval of such proposals,~~
- ~~(ee) the procedure for determining such applications,~~
- ~~(ef) [repealed]~~
- ~~(eg) [repealed]~~
- ~~(eh) [repealed]~~
- ~~(ei) [repealed]~~
- ~~(f) the form of schemes, continuations or variations, and~~
- ~~(g) giving notice of schemes which have been made or of the [continuation,] variation or revocation of schemes.~~

~~(3) The appropriate national authority may also make regulations modifying or excluding the application of provisions of this Part, so far as relating to quality contracts schemes, in cases where a local transport authority, or two or more local transport authorities acting jointly, do any of the following—~~

- ~~(a) [repealed]~~

## BUS SERVICES (WALES) BILL

~~(b) propose or decide that a scheme should continue in operation (with or without modification) under section 131A,~~

~~(c) propose or decide to vary or revoke a scheme under section 132.~~

~~(4) Regulations made by virtue of subsection (3) must not exclude any requirement for the authority or authorities—~~

~~(a) under section 126, to obtain the approval of the Welsh Ministers,~~

~~(b) [repealed].~~

### 134 Transitional provision about schemes

(1) The Welsh Ministers may by regulations make such transitional provisions as they consider appropriate in connection with—

(a) making Welsh franchising schemes,

(b) varying such schemes, and

(c) revoking such schemes.

~~(1) The appropriate national authority may by regulations make such transitional provision as it considers appropriate in connection with—~~

~~(a) the coming into operation of quality contracts schemes or of provisions of such schemes,~~

~~(b) the continuation in operation or variation of such schemes, and~~

~~(c) the ending of such schemes (whether or not as a result of their revocation).~~

(2) The regulations may in particular provide that in prescribed circumstances—

(a) any provision of sections 6 to 9 of the Transport Act 1985 (registration of local services), or of sections 89 to 92 of that Act (obligation to invite tenders etc), which would otherwise

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have effect is not to have effect or is to have effect with such modifications as may be prescribed, or

- (b) any such provision which would not otherwise have effect is to have effect or is to have effect with such modifications as may be prescribed,

in relation to the whole or any part of the area to which the scheme relates.

(3) Any regulations made by virtue of paragraph (a) of subsection (1) are not to have effect in the case of any Welsh franchising scheme ~~quality contracts scheme~~ as respects any time before the making of the scheme.

### **134A Guidance about schemes**

(1) The Welsh Ministers must issue guidance—

- (a) concerning the preparation by local transport authorities of assessments under section 124A of proposed Welsh franchising schemes, and that guidance may, in particular, include guidance about methods to be used when assessing a proposed scheme;
- (b) as to the matters to be taken into account by a local transport authority when selecting a person under section 124B to act as an independent auditor in relation to an assessment of a proposed Welsh franchising scheme.

(2) The Welsh Ministers may issue guidance concerning the performance by local transport authorities of their other functions in relation to Welsh franchising schemes.

(3) The authorities must have regard to guidance issued under this section.

### **134A Guidance about 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.~~

**134B Quality contracts: application of TUPE**

(1) Subsection (3) applies to a situation in which—

(a) at the effective time of a local franchise contract, local services cease to be provided by a person (the “former operator”) in accordance with section 129(2) in—

(i) the area to which the relevant Welsh franchising scheme relates, or

(ii) in the case of a franchising scheme which provides for scheme sub-areas, the relevant scheme sub-area.

~~(a) on the coming into force of a quality contract, local services cease to be provided by a person (the “former operator”) in the area to which the relevant quality contracts scheme, or (in the case of a scheme which provides for different provisions to come into operation on different dates) the relevant provision of the scheme, relates, in accordance with section 129(1)(b), and~~

(b) at the same time, a person (the “new operator”) begins to provide local services in that area under that local franchise contract ~~quality contract~~.

(2) Subsection (3) also applies to a situation in which—

(a) local services which, at the effective time of a Welsh franchise contract, a person (the “former operator”) would be required by section 129(2) to cease providing in—

(i) the area mentioned in subsection (1)(a)(i), or

(ii) the area mentioned in subsection (1)(a)(ii) (as the case may be),

cease to be provided by the former operator before the effective time of that local franchise contract, and

~~(a) local services which, on the coming into force of a quality contract, a person (the “former operator”) would be required by virtue of section 129(1)(b) to cease providing in the area~~

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<p><del>mentioned in subsection (1)(a) of this section, cease to be provided by the former operator before the coming into force of that quality contract, and</del></p> <p>(b) at the same time, a person (the “new operator”) begins to provide local services in that area under an agreement which the authority or authorities who made the relevant <u>Welsh franchising scheme</u> <del>quality contracts scheme</del> entered into by reason of the cessation of the local services referred to in paragraph (a).</p> <p>(3) Any situation to which this subsection applies is to be treated as a relevant transfer for the purposes of the Transfer of Undertakings (Protection of Employment) Regulations 2006 (“TUPE”) (whether or not TUPE would apply apart from this subsection).</p> <p>(4) For the purposes of TUPE, the organised grouping of employees that is subject to the relevant transfer consists of those employees of the former operator whose employment is principally connected with the provision of the local services referred to in subsection (1)(a) or (as the case may be) the local services referred to in subsection (2)(a).</p> <p>(5) Any situation which by virtue of this section is treated as a relevant transfer for the purposes of TUPE is also to be treated as a relevant transfer within the meaning of TUPE for the purposes of sections 257 and 258 of the Pensions Act 2004 and any regulations made under section 258 of that Act.</p> <p>(6) The <u>Welsh Ministers</u> <del>Secretary of State</del> may make regulations supplementing the provision made by this section.</p> <p>(7) The provision that may be made by regulations under subsection (6) includes—</p> <ul style="list-style-type: none"> <li>(a) provision for determining, for the purposes of subsection (4), whether a person's employment is principally connected with the provision of any particular local services (including provision for or in connection with the appointment of a person to make such determination);</li> <li>(b) provision for determining, in the case of any particular organised grouping of employees, the particular new operator who is to be the transferee for the purposes of TUPE (including provision for or in connection with the appointment of a person to make such determination);</li> </ul>	<p><i>Sections 11 and 16</i></p>
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<p>(c) provision requiring any person operating local services in the area to which a <u>Welsh franchising scheme</u> <del>quality contracts scheme</del> relates to provide the authority or authorities who made the scheme with such information as may be prescribed, at such time as may be prescribed, about such of that person's employees as would fall within subsection (4) if the person ceased to provide those services in the circumstances described in subsection (1)(a);</p> <p>(d) provision requiring the authority or authorities who made a <u>Welsh franchising scheme</u> <del>quality contracts scheme</del> to provide all persons operating local services in the area to which the scheme relates with such information as may be prescribed, at such time as may be prescribed, so as to enable such persons to comply with any requirement imposed by virtue of paragraph (c) of this subsection;</p> <p>(e) provision requiring the authority or authorities who made a <u>Welsh franchising scheme</u> <del>quality contracts scheme</del> to ensure that any <u>local franchise contract</u> <del>quality contract</del> entered into with a person under the scheme, or any other agreement made with a person for the provision of local services in the area to which the scheme relates, is made on terms—</p> <ul style="list-style-type: none"> <li>(i) that require the person, in the event of there being any transferring employees, to secure pension protection for every transferring employee, or every transferring employee of a prescribed description, who as an employee of the former operator had rights to acquire pension benefits, and</li> <li>(ii) that, so far as relating to the securing of pension protection for a transferring employee, are enforceable by the employee.</li> </ul> <p>(8) For the purposes of this section—</p> <ul style="list-style-type: none"> <li>(a) “transferring employee” means an employee of a former operator whose contract of employment becomes, either by virtue of TUPE or by virtue of this section, a contract of employment with a new operator;</li> <li>(b) “pension protection” is secured for a transferring employee if after the change of employer referred to in paragraph (a)—</li> </ul>	
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<p style="margin-left: 40px;">(i) the employee has, as an employee of the new operator, rights to acquire pension benefits, and</p> <p style="margin-left: 40px;">(ii) those rights are of such description as is prescribed by regulations.</p> <p>(9) The <del>Welsh Ministers</del> <del>Secretary of State</del> must exercise the power conferred by this section to make regulations containing provision falling within subsection (7)(e) so as to ensure—</p> <p style="margin-left: 20px;">(a) that pension protection is required to be secured for every transferring original employee who, as an employee of the original operator, had rights to acquire pension benefits, and</p> <p style="margin-left: 20px;">(b) that the rights to acquire pension benefits which a transferring original employee has as an employee of the new operator by virtue of paragraph (a) are rights which—</p> <p style="margin-left: 40px;">(i) are the same as the rights the transferring original employee had as an employee of the original operator, or</p> <p style="margin-left: 40px;">(ii) under provision made by regulations, count as being broadly comparable to, or better than, those rights.</p> <p>(10) For the purposes of subsection (9)—</p> <p>“transferring original employee” means a transferring employee—</p> <p style="margin-left: 20px;">(a) who immediately before the relevant date was employed by a person (the “original operator”) providing local services in the area to which the relevant <u>Welsh franchising scheme</u> <del>quality contracts scheme</del> relates, and</p> <p style="margin-left: 20px;">(b) whose contract of employment—</p> <p style="margin-left: 40px;">(i) was, from that date until the change of employer referred to in subsection (8)(a), a contract of employment with the original operator, or</p> <p style="margin-left: 40px;">(ii) on each occasion when the employee was subject to a relevant transfer became, either by virtue of TUPE or by virtue of this section, a contract of employment with a person providing local services in the area referred to in paragraph (a);</p> <p>“relevant date”, in relation to a <u>Welsh franchising scheme</u> <del>quality contracts scheme</del>, means—</p>	
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- (a) the date on which the scheme was made, or
  - (b) where—
    - (i) the local services being provided by the original operator were not subject to the scheme when it was made, and
    - (ii) as a result of either the variation of the scheme, or the continuation of the scheme with modifications, those services became subject to the scheme,
- the date on which that variation, or (as the case may be) the decision to continue the scheme with those modifications, was made;

“relevant transfer” means anything that is, or is to be treated as, a relevant transfer for the purposes of TUPE.

(11) A person is guilty of an offence under this subsection if—

- (a) the person provides information in accordance with a requirement imposed by virtue of subsection (7)(c),
- (b) the information is false or misleading in a material particular, and
- (c) the person knows that it is or is reckless as to whether it is.

(12) A person who is guilty of an offence under subsection (11) is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

**Transport Act 1985**

*Registration of local services*

## *BUS SERVICES (WALES) BILL*

### **6 Registration of local services**

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

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

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

- (a) the obligation placed on a local authority by section 508B(1), section 508F(1), or section 509AA(7)(b) or (9)(a) of the Education Act 1996 (provision of transport etc);
- (b) the exercise of the power of a [local authority] under section 508C(1) of that Act;
- (c) arrangements made by a [local authority] in pursuance of a scheme made by them under Schedule 35C to that Act (school travel schemes);
- [(d) the obligation placed on a local authority by sections 3 or 4 of the Learner Travel (Wales) Measure 2008; or
- (e) the exercise of the power of a local authority under section 6 of that Measure.

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

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

[(1D) A service falls within this subsection if—

- (a) it has one or more stopping places in England, and
- (b) it is provided under an agreement entered into, where a railway service has been temporarily interrupted, with the person who usually provides the railway service.

(1E) Where a service is provided both inside and outside England, any part of the service which is provided outside England is to be treated as a separate service for the purposes of subsection (1D) if there is any stopping place for that part of the service outside England.

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

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

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(2ZA) But subsection (2) does not apply to—

(a) a service provided under a local franchise contract within the meaning given by section 124(4) of the Transport Act 2000, or

(b) an interim service within the meaning given by section 132C of that Act.

(2A) Where—

(a) any registration restrictions imposed under section 113D(1) ~~or 114(3A)~~ of the Transport Act 2000 (advanced quality partnership schemes ~~and quality partnership schemes~~) are in force, and

(b) an application for registration is made in respect of a service in relation to which those restrictions have effect,

section 6A of this Act has effect in relation to the application.

(2AA) Where—

(a) a Welsh partnership scheme under section 114 of the Transport Act 2000 is in operation,

(b) an application for registration is made in respect of a service which is to have one or more stopping places within the area to which the scheme relates, and

(c) the service is not excluded from the scheme by virtue of section 116(3) of the Transport Act 2000,

sections 6AA and 6AB of this Act have effect in relation to the application.

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(2B) Where—

- (a) a Welsh franchising scheme under section 124 of the Transport Act 2000 has been made,
- ~~(a) a quality contracts scheme under section 124 of the Transport Act 2000 is in force in relation to an area in Wales,~~
- (b) an operator proposes to provide a local service which is to have one or more stopping places within the area to which the scheme relates,
- (c) the proposed service is not excluded from the scheme by virtue of section 127(4) of the Transport Act 2000, and
- (d) the operator does not propose to provide the service under a local franchise contract ~~quality contract~~ by virtue of the scheme,

section 6B of this Act has effect with respect to registration of that service.

(2C) Where—

- (a) a requirement imposed under section 138A(5)(b) of the Transport Act 2000 (requirements specified in an enhanced partnership scheme) has effect, and
- (b) an application to register a service, or to vary the registration of a service, is made in respect of a service to which that requirement would apply if the application were granted,

section 6D has effect with respect to the application.

(2D) Where—

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- (a) an enhanced partnership scheme under section 138A of the Transport Act 2000 is in operation,
- (b) a service is registered, or a registration of a service is varied, under this section, and
- (c) a requirement imposed under section 138A(5)(b) of the Transport Act 2000 applies to the service or the service as varied,

the requirement is to be recorded with the particulars of the service required to be registered under this section.

(3) In *subsection (2) above* [this section] “the period of notice”, in relation to any registration, means, subject to regulations under this section—

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

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

(5) In subsection (4) above “unconditional”, in relation to a PSV operator's licence, means a licence which does not have attached to it a condition imposed under section 26(1) of this Act prohibiting, or

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having the effect of prohibiting, the operator from using vehicles under the licence to provide the service to which the application in question relates.

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

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

(7ZA) Subsection (7ZB) applies where—

(a) a Welsh partnership scheme under section 114 of the Transport Act 2000 is in operation,

(b) an application to cancel or vary a registration is made in respect of a service which has one or more stopping places within the area to which the scheme relates, and

(c) the service is not excluded from the scheme by virtue of section 116(3) of the Transport Act 2000.

(7ZB) Where this subsection applies—

(a) section 6AA of this Act has effect in relation to an application to cancel a registration;

(b) sections 6AA and 6AB of this Act have effect in relation to an application to vary a registration.

(7ZC) Where a Welsh partnership scheme under section 114 of the Transport Act 2000 is in operation, the registration of a service may also be cancelled under section 6AC of this Act.



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<p>(7A) Where—</p> <p><u>(a) a Welsh franchising scheme under section 124 of the Transport Act 2000 has been made,</u></p> <p><del>(a) a quality contracts scheme under section 124 of the Transport Act 2000 is in force in</del> relation to an area in Wales,</p> <p>(b) the operator of a local service registered under this section proposes to vary the registration,</p> <p>(c) the service, as proposed to be varied, is to have one or more stopping places within the area to which the scheme relates,</p> <p>(d) the service, as proposed to be varied, is not excluded from the scheme by virtue of section 127(4) of the Transport Act 2000, and</p> <p>(e) the operator does not propose to provide the service, as proposed to be varied, under a <u>local franchise contract</u> <del>quality contract</del> by virtue of the scheme,</p> <p>section 6B of this Act has effect with respect to the variation of the registration.</p> <p>(7B) Where an enhanced partnership scheme under section 138A of the Transport Act 2000 is in operation, the registration of a service may also be cancelled under section 6E.</p> <p>(8) Subject to regulations under this section and, in the case of variation, to section 6B of this Act, the variation or cancellation of a registration shall become effective—</p>	<p><i>Section 11</i></p>
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- (a) on the expiry of the period beginning with the date on which a traffic commissioner accepts the application and ending with the date determined in accordance with regulations under this section; or
- (b) if later, on the day given to *the traffic commissioner* [a traffic commissioner] by the operator as the effective date for the variation or (as the case may be) cancellation.

(8A) Where a service is registered under this section or, as the case may be, a registration is varied under this section, the operator of the service which has been registered, or in respect of which the registration has been varied, shall provide that service for a period of at least 90 days (or, as the case may be, such other period as the traffic commissioner may specify) beginning with the day on which the period of notice expires or, as the case may be, the variation becomes effective.

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

- (a) for permitting the variation of a registered service, in such circumstances as may be prescribed, without variation of the registration;
- (b) for excluding or modifying the application of subsection (3) or (8) above in such cases or classes of case as may be prescribed;
- (c) that in such cases or classes of case as may be prescribed—

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| <p>(i) subsection (2) above shall have effect as if for the reference in paragraph (b) to the period of notice there were substituted a reference to such period as a traffic commissioner may determine;</p> <p>(ii) subsection (8) above shall have effect as if for the reference in paragraph (a) to the date on which the period mentioned in that paragraph is to expire there were substituted a reference to such date as a traffic commissioner]may determine;</p> <p>(d) as to the procedure for [or in connection with] applying for registration or for the variation or cancellation of a registration;</p> <p>(da) subject to subsection (10) below, specifying dates as the only dates on which the operator of a local service in the area (or areas) of such local authority (or authorities) as may be specified in the regulations may vary a registration in so far as it relates to the scheduled times of the local service in respect of which the registration is made;</p> <p>(e) for an application for registration or for the variation or cancellation of a registration not to be accepted by a traffic commissioner unless the applicant gives to a traffic commissioner, in such form as he may require, such information as a traffic commissioner may reasonably require in connection with the application (or, if the applicant is subject to requirements imposed by regulations made by virtue of section 141A(1)(a) of the Transport Act 2000, complies with those requirements);</p> <p>(f) <i>as to the traffic commissioner to whom an application for registration is to be made in the case of services which will run through the areas of two or more traffic commissioners;</i></p> |  |
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| <p>(g) as to the documents (if any) to be issued by a traffic commissioner with respect to registrations;</p> <p>(h) as to the cancellation of registrations relating to discontinued services;</p> <p>(ha) as to the variation or cancellation of the record of a requirement imposed under section 138A(5)(b) of the Transport Act 2000;</p> <p>(i) for enabling a traffic commissioner to require the operator of a registered service, in such circumstances as may be prescribed, to keep records of such matters relating to the operation of the service, in such manner, as may be prescribed;</p> <p>(j) for requiring the operator of a registered service who is required to keep records by regulations made by virtue of paragraph (i) above to make those records available to a traffic commissioner;</p> <p>(k) for requiring the operator or prospective operator of a registered service to give, to such persons and at such times as may be prescribed, such information as may be prescribed with respect to the service, or proposed service, or any proposal to vary or cancel the registration of the service;</p> <p>(ka) for imposing restrictions on the use that may be made of records made available as mentioned in paragraph (j) above or information given as mentioned in paragraph (k) above;</p> <p>(l) for excluding from the application of this section services which are—</p> |  |
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(i) excursions or tours; or

(ii) excursions or tours falling within a prescribed class.

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

(a) may create one or more criminal offences relating to the use of records or information in breach of the restrictions imposed by those regulations, but

(b) may not provide, in respect of any such offence, for a penalty greater than a fine not exceeding level 4 on the standard scale.

(11) The power to make regulations under subsections (2), (3) and (9), so far as exercisable in relation to Wales, is exercisable by the Welsh Ministers (and not by the Secretary of State).

**6A Applications for registration etc where restrictions are in force**

(1) This section applies in any case where—

(a) any registration restrictions imposed under section 113D(1) ~~or 114(3A)~~ of the Transport Act 2000 are in force in the case of an advanced quality partnership scheme ~~or a quality partnership scheme~~ (“the scheme”);

(b) an application for registration, or for variation or cancellation of registration, is made under section 6 of this Act in respect of a local service in relation to which those restrictions have effect; and

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(c) the application is one which would fall to be accepted by a traffic commissioner, apart from this section.

(2) In any such case the traffic commissioner, before deciding whether or not to accept the application, must give to—

(a) each relevant authority, and

(b) each relevant operator,

a notice complying with subsection (3) below.

(3) The notice must—

(a) identify the application and state that it has been made;

(b) provide prescribed particulars of the application;

(c) inform the persons to whom it is required to be sent of the right of each of them to make relevant representations to the traffic commissioner about the application.

(4) If no relevant representations are made, the application is to be accepted.

(5) If any relevant representations are made by a relevant authority or a relevant operator, the traffic commissioner must decide whether the effect of accepting the application would be detrimental to the provision of local services under the scheme.

(6) The traffic commissioner may decide that question only after—

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- (a) considering those representations;
- (b) taking account of any other relevant applications and any relevant representations made in relation to those applications;
- (c) holding such inquiries under section 54 of the 1981 Act as the traffic commissioner may think fit; and
- (d) applying the registration criteria.

(7) If the traffic commissioner decides that the effect of accepting the application would not be detrimental to the provision of such services, the application is to be accepted.

(8) If subsection (7) above does not apply, the traffic commissioner may do any one or more of the following—

- (a) refuse to accept the application;
- (b) require the applicant to amend the application in such respects as the traffic commissioner may require before submitting it again;
- (c) if the applicant has not given a written undertaking under section [113J(4) or (5) or] ~~section 118(4)~~ of the Transport Act 2000 in relation to the scheme, require the applicant to give such an undertaking before the application may be accepted.

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

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

(10) [repealed]

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

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

(12) In this section—

“advanced quality partnership scheme” means a scheme under section 113C of the Transport Act 2000;

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

“registration criteria”—



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(a) in relation to an advanced quality partnership scheme, means the criteria specified in the scheme by virtue of section 113D(3) of the Transport Act 2000;

~~(b) in relation to a quality partnership scheme, means the criteria specified in the scheme by virtue of section 114(3C) of the Transport Act 2000;~~

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

(a) which is made in respect of a local service in relation to which the registration restrictions have effect, and

(b) which (whenever made) is awaiting the decision of a traffic commissioner;

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

“relevant operator” means—

(a) any operator of local services who has given an undertaking under section 113J(4) or (5) ~~or 118(4)~~ of the Transport Act 2000 in respect of the scheme;

(b) any other operator of local services which might be affected if the application were to be accepted;

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

“the traffic commissioner” means the traffic commissioner dealing with the application mentioned in subsection (1).

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(13) The power to make regulations under subsection (11), so far as exercisable in relation to Wales, is exercisable by the Welsh Ministers (and not by the Secretary of State).

**6AA Welsh partnership schemes: applications for registration etc. where restrictions have been imposed**

*Section 11*

(1) This section applies in any case where—

(a) any registration restrictions imposed under section 114(3A) of the Transport Act 2000 are in force in the case of a Welsh partnership scheme (“the scheme”), and

(b) an application for registration, or for variation or cancellation of registration, is made under section 6 of this Act in respect of a local service in relation to which those restrictions have effect.

(2) The traffic commissioner, before deciding whether or not to accept the application, must give a notice complying with subsection (3) to—

(a) each relevant authority, and

(b) each relevant operator.

(3) The notice must—

(a) identify the application and state that it has been made;

(b) provide prescribed particulars of the application;

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(c) inform the persons to whom it is required to be sent of the right of each of them to make relevant representations to the traffic commissioner about the application.

(4) If no relevant representations are made—

(a) in the case of an application for registration or variation of registration, the application is to be accepted unless it is to be refused in accordance with section 6AB;

(b) in the case of an application for cancellation of registration, the application is to be accepted.

(5) If any relevant representations are made, the traffic commissioner must decide whether the effect of accepting the application would be detrimental to the provision of local services under the scheme.

(6) The traffic commissioner may decide that question only after—

(a) considering those representations,

(b) taking account of any other relevant applications and any relevant representations made in relation to those applications,

(c) holding such inquiries under section 54 of the 1981 Act as the traffic commissioner may think fit, and

(d) applying the registration criteria.

(7) If the traffic commissioner decides that the effect of accepting the application would not be detrimental to the provision of such services—

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<p><u>(a) in the case of an application for registration or variation of registration, the application is to be accepted unless it is to be refused in accordance with section 6AB;</u></p> <p><u>(b) in the case of an application for cancellation of registration, the application is to be accepted.</u></p> <p><u>(8) If the traffic commissioner decides that the effect of accepting the application would be detrimental to the provision of such services, the traffic commissioner may—</u></p> <p><u>(a) refuse to accept the application, or</u></p> <p><u>(b) require the applicant to resubmit the application with such amendments as the traffic commissioner considers appropriate.</u></p> <p><u>(9) An appeal against any decision of a traffic commissioner under this section may be made to the Upper Tribunal by any of the following persons—</u></p> <p><u>(a) the person who made the application;</u></p> <p><u>(b) any relevant authority that made relevant representations;</u></p> <p><u>(c) any relevant operator who made relevant representations.</u></p> <p><u>(10) Regulations may be made for the purposes of carrying this section into effect; and the provision that may be made by any such regulations includes provision—</u></p> <p><u>(a) as to the procedure for giving notice under subsection (2);</u></p> <p><u>(b) prescribing the particulars of the application that are to be provided in such a notice;</u></p>	<p><i>Section 11</i></p>
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(c) as to the procedure for making relevant representations;

(d) as to the procedure to be followed by the traffic commissioner in determining the application.

(11) The power to make regulations under subsection (10) is exercisable by—

(a) the Welsh Ministers, in the case of a scheme relating to an area in Wales only, or

(b) in any other case, the Secretary of State and the Welsh Ministers acting jointly.

(12) In this section—

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

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

(a) which is made in respect of a local service in relation to which the registration restrictions have effect, and

(b) which (whenever made) is awaiting the decision of a traffic commissioner;

“relevant authority” means the local transport authority, or any of the local transport authorities, operating the scheme;

“relevant operator” means—

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<p><u>(a) any operator of local services in relation to which registration restrictions imposed under section 114(3A) of the Transport Act 2000 in respect of the scheme have effect;</u></p> <p><u>(b) any other operator of local services which might be affected if the application were to be accepted;</u></p> <p><u>“relevant representations” means representations that the effect of accepting the application would be detrimental to the provision of services under the scheme, having regard to the registration criteria;</u></p> <p><u>“the traffic commissioner” means the traffic commissioner dealing with the application mentioned in subsection (1).</u></p> <p><u>(13) In this section and in sections 6AB to 6AD, “local transport authority” has the meaning given in section 108(4) of the Transport Act 2000.</u></p> <p><b><u>6AB Welsh partnership schemes: registration and variation of services to be provided in accordance with service standards</u></b></p> <p><u>(1) This section applies where—</u></p> <p><u>(a) service standards are specified in a Welsh partnership scheme, and</u></p> <p><u>(b) a person (“the applicant”) makes an application for registration, or for variation of registration, under section 6 in respect of a local service which would be required to be provided in accordance with a particular service standard if the application were granted.</u></p>	<p><i>Section 11</i></p> <p><i>Section 16</i></p>
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| <p><u>(2) If a traffic commissioner considers that the applicant is unlikely to be able to provide the service in accordance with the service standard, the traffic commissioner must refuse the application.</u></p> <p><u>(3) If a traffic commissioner accepts the application, any service standard in accordance with which the local service is to be provided must be recorded in the registration.</u></p> <p><u>(4) Before making a decision under this section the traffic commissioner must give notice to—</u></p> <p style="padding-left: 40px;"><u>(a) the applicant, and</u></p> <p style="padding-left: 40px;"><u>(b) the local transport authority, or authorities, operating the scheme,</u></p> <p><u>informing them of their right to make representations to the traffic commissioner about the application.</u></p> <p><u>(5) An appeal against any decision of a traffic commissioner under this section may be made to the Upper Tribunal by any of the following persons—</u></p> <p style="padding-left: 40px;"><u>(a) the applicant;</u></p> <p style="padding-left: 40px;"><u>(b) a local transport authority operating the scheme (whether alone or jointly with another authority), provided the authority made representations to the commissioner about the application before the decision was made.</u></p> <p><u>(6) Regulations may make provision—</u></p> <p style="padding-left: 40px;"><u>(a) as to the procedure for giving notice under subsection (4);</u></p> <p style="padding-left: 40px;"><u>(b) as to the procedure for making representations following such a notice;</u></p> |  |
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(c) as to the procedure to be followed by a traffic commissioner in determining an application such as referred to in subsection (1)(b).

(7) The power to make regulations under subsection (6) is exercisable by—

(a) the Welsh Ministers, in the case of a Welsh partnership scheme relating to an area in Wales only, or

(b) in any other case, the Secretary of State and the Welsh Ministers acting jointly.

(8) In this section and sections 6AC and 6AD—

“service standard” means a standard such as may be specified in a Welsh partnership scheme;

“Welsh partnership scheme” means a scheme under section 114 of the Transport Act 2000.

**6AC Cancellation of registration where service not operated in accordance with service standard specified in a Welsh partnership scheme**

(1) A traffic commissioner may cancel the registration of a local service if—

(a) the service is required to be provided in accordance with a service standard specified in a Welsh partnership scheme, and

(b) the traffic commissioner considers that the service is not being provided in accordance with that standard.



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<p><u>(2) Before deciding to cancel a service under subsection (1), the traffic commissioner must give notice to—</u></p> <p><u>(a) the operator of the service, and</u></p> <p><u>(b) the local transport authority, or authorities, operating the scheme,</u></p> <p><u>informing them of the commissioner’s intention to cancel the service and of their right to make representations to the commissioner about the intended cancellation.</u></p> <p><u>(3) A cancellation under subsection (1) becomes effective on the date prescribed by the appropriate authority</u></p> <p><u>by regulations.</u></p> <p><u>(4) Where the registration of a service is cancelled under subsection (1), the operator of the service may appeal to the Upper Tribunal against the cancellation.</u></p> <p><u>(5) Where—</u></p> <p><u>(a) a local authority operating the scheme (whether alone or jointly with another authority) makes representations following a notice given under subsection (2), and</u></p> <p><u>(b) the traffic commissioner decides not to cancel the service,</u></p> <p><u>the authority may appeal to the Upper Tribunal against that decision.</u></p> <p><u>(6) Regulations may make such supplemental provision as the appropriate authority thinks appropriate in connection with cancellations under subsection (1).</u></p>	<p><i>Section 16</i></p>
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(7) Regulations under subsection (6) may, in particular, make provision—

- (a) preventing cancellation where the operator of a service satisfies conditions prescribed by the regulations;
- (b) as to the procedure for cancellation under subsection (1);
- (c) as to the procedure for giving notice under subsection (2);
- (d) as to the procedure for making representations following such a notice;
- (e) as to the giving of notice to the operator and to the authority, or authorities, operating the scheme of a decision not to cancel.

(8) For the purposes of subsections (3) and (6), the “appropriate authority” is—

- (a) the Welsh Ministers, in the case of regulations applying to a Welsh partnership scheme relating to an area in Wales only, or
- (b) in any other case, the Secretary of State and the Welsh Ministers acting jointly.

**6AD Welsh partnership schemes: supplemental provision about appeals**

(1) For the purposes of section 13(2) of the Tribunals, Courts and Enforcement Act 2007 (appeals to Court of Appeal etc. against decisions of the Upper Tribunal) as it applies to a right of appeal against the decision of the Upper Tribunal on—

- (a) an appeal under—
  - (i) section 6AA(9),
  - (ii) section 6AB(5), or

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(iii) section 6AC(4) or (5), or

(b) a further appeal under section 6N(4) (further appeal to the Upper Tribunal following appeal to a local transport authority),

the persons mentioned in subsection (2) are to be treated as parties to a case.

(2) The persons are—

(a) the person operating, or proposing to operate, the service in question,

(b) the local transport authority or authorities operating the relevant Welsh partnership scheme, and

(c) a traffic commissioner.

**6B Applications for registration where Welsh franchising scheme has been made ~~quality contracts scheme in force~~**

(1) This section applies—

- (a) by virtue of subsection (2B) of section 6 of this Act (“Case 1”), in relation to registration of the proposed local service mentioned in that subsection;
- (b) by virtue of subsection (7A) of that section (“Case 2”), in relation to the proposed variation of the registration mentioned in that subsection.

(2) Where this section applies, the operator may apply to a traffic commissioner—

- (a) in Case 1, for registration of the proposed service under section 6 of this Act, or
- (b) in Case 2, for variation of the registration under that section,

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~~notwithstanding anything in section 129(1)(a) of the Transport Act 2000 (sections 6 to 9 of this Act not to apply).~~

(3) The traffic commissioner must not accept the application except in accordance with subsections (4) to (6) below.

(4) On receipt of the application, the traffic commissioner must consult the relevant authority or authorities. ~~authority or authorities who made the quality contracts scheme.~~

(5) If, within the prescribed time, the traffic commissioner receives from the authority or authorities a clearance certificate in respect of the application, the traffic commissioner must—

(a) in Case 1, register the service under section 6 of this Act, or

(b) in Case 2, vary the registration under that section.

(6) If the traffic commissioner does not receive such a certificate within that time, the application must be rejected.

(6A) Where the application is rejected, the person who made the application may appeal to the Upper Tribunal.

(7) In relation to Case 2, regulations may prescribe cases in which subsections (3) to (6) above do not apply.

(8) In this section—

“clearance certificate” means a certificate that the provision—

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(a) in Case 1, of the proposed local service, or

(b) in Case 2, of the local service as proposed to be varied,

will not have an adverse effect on local services provided under local franchise contracts ~~quality contracts~~ in the area to which the Welsh franchising scheme ~~quality contracts scheme~~ relates;

“prescribed” means prescribed in regulations;

“the relevant authority or authorities” means the local transport authority or authorities (within the meaning given in section 108(4) of the transport Act 2000) who made the Welsh franchising scheme;

~~“the relevant authority or authorities” means the authority or authorities—~~

~~(a) who last continued the quality contracts scheme in force under section 131A of the Transport Act 2000, or~~

~~(b) if the scheme has not been so continued, who made it;~~

“the traffic commissioner” means the traffic commissioner dealing with the application.

(9) The power to make regulations under subsections (5) and (7), so far as exercisable in relation to Wales, is exercisable by the Welsh Ministers (and not by the Secretary of State).

**6BA Cancellation or variation of service where Welsh franchising scheme has been made**

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(1) If a relevant authority or authorities consider that the continued registration of a service authorised by virtue of section 6B will have an adverse effect on services provided in their area under local franchise contracts, the authority or authorities may apply to the traffic commissioner for the service to be—

(a) cancelled, or

(b) varied in such a manner as the authority or authorities considers would result in no such adverse effect.

(2) The traffic commissioner must accept the application.

(3) The traffic commissioner must notify the operator of the service that the service is to be—

(a) cancelled or,

(b) varied.

(4) Where a service is to be varied, the notice must set out how the service is to be varied.

(5) An appeal against a cancellation or variation made under this section may be made to the Upper Tribunal by the operator of the service.

(6) The Welsh Ministers may by regulations make further provision for the purposes of carrying this section into effect, including in particular provision—

(a) as to the procedure for giving notice under subsection (3);

(b) as to when a cancellation or a variation takes effect.

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(7) In this section—

“local franchise contract” has the meaning given in section 124(4) of the Transport Act 2000;

“relevant authority or authorities” has the same meaning as in section 6B of this Act.

**6C Variation or cancellation of registration: service information**

(1) Regulations may require the operator of a local service registered under section 6 to provide prescribed information to any local transport authority in England in whose area the service has a stopping place if—

- (a) the operator—
  - (i) has made an application under section 6 to vary or cancel the registration of the service, or
  - (ii) has notified the local transport authority in accordance with regulations under that section that it proposes to make such an application, and
- (b) the authority requests the operator to provide the information.

(2) The information that may be prescribed is information relating to—

- (a) the number of passengers using the service, the journeys made by those passengers and the fares paid by them, and
- (b) the revenue obtained by operating the service.

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(3) Regulations under this section may, in particular—

- (a) make provision about the periods of time in respect of which information may be required,
- (b) make provision about the time when, and the manner and form in which, information is to be provided,
- (c) provide for a traffic commissioner or a body carrying out a traffic commissioner's functions in accordance with section 6G not to accept an application to vary or cancel the service if the operator has failed to comply with the regulations,
- (d) make provision about the use and disclosure of information provided under the regulations (including provision about its further disclosure),
- (e) make provision as to cases in which section 67 of the 1981 Act does not apply in relation to contraventions of, or failures to comply with, the regulations,
- (f) make provision subject to conditions, and
- (g) make supplementary, incidental, consequential or transitional provision.

(4) In this section “local transport authority” has the meaning given in section 108(4) of the Transport Act 2000.

**6D Applications for registration where an enhanced partnership scheme is in operation**



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(1) This section applies in any case where—

- (a) an enhanced partnership scheme under section 138A of the Transport Act 2000 is in operation;
- (b) a requirement imposed under section 138A(5)(b) of the Transport Act 2000 has effect;
- (c) an application for registration, or for variation of registration, is made under section 6 of this Act in respect of a local service to which that requirement would apply if the application were granted; and
- (d) the application is one which would fall to be accepted, apart from this section.

(2) A traffic commissioner must refuse the application if—

- (a) the requirement is an operation requirement, and
- (b) the traffic commissioner considers that the person who would be the operator of—
  - (i) the service proposed to be provided, or,
  - (ii) the service as proposed to be varied,

is unlikely to be able to comply with that requirement as regards that service.

(3) If, where the requirement is a route requirement, the registration, or variation of registration, of the service under section 6 is prevented by regulations under section 6E(6), a traffic commissioner must refuse the application.

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(4) In this section—

“operation requirement” means a requirement imposed under section 138A(5)(b) of the Transport Act 2000, other than a route requirement;

“route requirement” means a requirement imposed under section 138A(5)(b) of the Transport Act 2000 that falls within section 138C(1) of that Act.

**6E Cancellation and control of registration where enhanced partnership scheme is in operation**

(1) This section applies in a case where—

- (a) an enhanced partnership scheme under section 138A of the Transport Act 2000 is in operation, and
- (b) one or more requirements imposed under section 138A(5)(b) of the Transport Act 2000 by the scheme have effect.

(2) If a traffic commissioner considers that—

- (a) an operation requirement imposed by the scheme applies to a service registered under section 6, and
- (b) the service is not being provided in accordance with that requirement,

the traffic commissioner may cancel the registration of that service.

(3) If a traffic commissioner considers that—

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(a) a route requirement imposed by the scheme applies to a service registered under section 6, and

(b) that service cannot be provided in accordance with that requirement,

the traffic commissioner must cancel the registration of that service.

(4) If a traffic commissioner considers that—

(a) a route requirement imposed by the scheme applies to two or more services registered under section 6, and

(b) those services cannot all be provided in accordance with that requirement,

the traffic commissioner must cancel the registration of those services.

(5) Subject to regulations under this section, a cancellation of the registration of a service under subsection (2), (3) or (4) becomes effective on the expiry of the period beginning with the date on which a traffic commissioner gives notice to the operator of the service of the cancellation of the registration and ending with the date determined in accordance with regulations under this section.

(6) Regulations under this section may make provision controlling the registration, or the variation of registration, under section 6 of local services which would, or would as varied, be subject to a route requirement by reference to which a registration or registrations was or were cancelled under subsection (3) or (4).

(7) Regulations under subsection (6) may, in particular—

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| <ul style="list-style-type: none"><li>(a) provide for the determination of the services that may be registered and the persons who may register such services;</li><li>(b) provide for those matters to be determined by the local transport authority or authorities operating the enhanced partnership scheme;</li><li>(c) provide for the authority or authorities to award contracts authorising persons to provide local services or local services of particular descriptions;</li><li>(d) provide for services not to be registered under section 6, and for variations of registration under section 6 not to be made, in prescribed cases;</li><li>(e) make provision as to the period during which the registration, or variation of registration, of local services under section 6 is subject to provision under subsection (6).</li></ul> |  |
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(8) Regulations may be made for the purpose of carrying this section into effect and any such regulations may, in particular—

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| <ul style="list-style-type: none"><li>(a) make provision as to the procedure for cancellation under this section, including provision for giving notice of an intention to cancel unless an operator of a local service satisfies prescribed conditions;</li><li>(b) make provision for cancellation under subsection (3) or (4) to be revoked if prescribed conditions are satisfied, including conditions relating to the variation or cancellation under section 6 of the registration of one or more of the services affected;</li></ul> |  |
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- (c) make provision for the time at which cancellation under subsection (3) or (4) becomes effective to be postponed in prescribed circumstances.

(9) In this section—

“local transport authority” has the meaning given in section 108(4) of the Transport Act 2000;

“operation requirement” and “route requirement” have the same meaning as in section 6D.

#### **6F Enhanced partnership schemes: appeals**

(1) A person may appeal to the Upper Tribunal against—

- (a) a decision to record a requirement under section 6(2D) (recording of requirements specified in an enhanced partnership scheme) in relation to a service provided by the person,
- (b) a refusal under section 6D(2) or (3) of an application made by the person, or
- (c) a cancellation under section 6E of the registration of a service provided by the person.

(2) But if the decision, refusal or cancellation was made by a local transport authority by virtue of section 6G—

- (a) the appeal as regards that matter is to be made to a traffic commissioner, and

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<p>(b) the local transport authority or authorities operating the relevant enhanced partnership scheme under section 138A of the Transport Act 2000 is or are to be parties to the proceedings.</p> <p>(3) On an appeal under subsection (2), a traffic commissioner may—</p> <p>(a) uphold the decision,</p> <p>(b) quash the decision, or</p> <p>(c) substitute a decision for the decision made.</p> <p>(4) Regulations may make provision—</p> <p>(a) as to the time within which, and the manner in which, appeals under subsection (2) may be made, and</p> <p>(b) as to the procedure to be followed in connection with such appeals.</p> <p>(5) A decision of a traffic commissioner on an appeal under subsection (2) may be appealed to the Upper Tribunal by—</p> <p>(a) the person who appealed under subsection (2), or</p> <p>(b) the local transport authority or authorities operating the relevant enhanced partnership scheme.</p> <p>(6) A local transport authority or authorities operating an enhanced partnership scheme under section 138A of the Transport Act 2000 may appeal to the Upper Tribunal against—</p>	
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- (a) a decision of a traffic commissioner to register a service that has a stopping place in the area to which the scheme relates, or
- (b) a decision of a traffic commissioner not to record a requirement under section 6(2D) in relation to such a service.

(7) For the purposes of section 13(2) of the Tribunals, Courts and Enforcement Act 2007 (appeals to Court of Appeal etc against decisions of the Upper Tribunal) the following persons are to be treated as parties to a case—

- (a) the person whose service is in question;
- (b) the local transport authority or authorities operating the relevant enhanced partnership scheme; and
- (c) a traffic commissioner.

(8) In this section “local transport authority” has the meaning given in section 108(4) of the Transport Act 2000.

**6G Traffic commissioner functions where an enhanced partnership scheme in operation**

(1) This section applies where notice of—

- (a) the making of an enhanced partnership scheme under section 138A of the Transport Act 2000, or

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(b) the varying of an enhanced partnership scheme,

is given to a traffic commissioner under section 138G(5) or 138M(6) of the Transport Act 2000 by a local transport authority or authorities.

(2) The authority or authorities must also notify the traffic commissioner—

(a) whether or not the scheme, or the scheme as varied, specifies a route requirement, and

(b) in relation to each route requirement specified, whether or not it relates to—

(i) a particular service that only has stopping places in the area to which the scheme relates,

(ii) particular services at least one of which is such a service, or

(iii) a particular description of services which includes or is capable of including such a service.

(3) In a case where the scheme, or the scheme as varied, relates to the whole or part of the combined area of two or more local transport authorities, the notification under subsection (2) must also state which of the authorities is the lead authority.

(4) If the scheme, or the scheme as varied, specifies a route requirement that relates to a particular service that only has stopping places in the area to which the scheme relates, particular services at



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least one of which is such a service or a particular description of services which includes or is capable of including such a service—

- (a) a traffic commissioner must delegate the relevant registration functions as regards services that only have stopping places in that area to the authority or the lead authority (as the case may be), and
- (b) the authority or the lead authority (as the case may be) must carry them out.

(5) A delegation under subsection (4) has effect—

- (a) when the scheme comes into operation, or
- (b) when the variation of the scheme takes effect (as the case may be).

(6) If subsection (4) does not apply, the authority or the lead authority (as the case may be)—

- (a) may elect to carry out the relevant registration functions as regards services that only have stopping places in the area to which the scheme relates as from a particular time, and
- (b) if that election is made, must notify a traffic commissioner of that election and the time selected.

(7) If notification is given under subsection (6), a traffic commissioner must delegate the relevant registration functions to—

- (a) the authority, or

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(b) the lead authority (as the case may be);

and the authority or the lead authority (as the case may be) must carry them out.

(8) A delegation under subsection (4) or (7) may come to end only when the scheme in question ceases to operate.

(9) Regulations may be made for the purpose of carrying this section into effect.

(10) In this section—

“local transport authority” has the meaning given in section 108(4) of the Transport Act 2000;

“the relevant registration functions”, in relation to an enhanced partnership scheme, means the functions of a traffic commissioner under sections 6, 6D and 6E of this Act so far as relating to—

(a) in the case of functions relating to the variation of registration, services that would be relevant services if varied as proposed, or

(b) in the case of any other function, relevant services;

“relevant service”, in relation to an enhanced partnership scheme, means a local service that only has stopping places in the area to which the scheme relates;

“route requirement” has the same meaning as in section 6D.

**6H Fees relating to relevant registration functions**

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<p>(1) This section applies where the relevant registration functions of a traffic commissioner are carried out by a local transport authority in accordance with section 6G.</p> <p>(2) The local transport authority may charge fees under this section in respect of—</p> <ul style="list-style-type: none"><li>(a) an application under section 6 of this Act for the registration of a relevant service,</li><li>(b) an application under section 6 of this Act for the variation of the registration of a service that, as varied, would be or continue to be a relevant service, and</li><li>(c) an application under section 6 of this Act for the cancellation of the registration of a relevant service.</li></ul> <p>(3) The fees—</p> <ul style="list-style-type: none"><li>(a) are to be determined by or in accordance with regulations,</li><li>(b) are to be payable by such persons and at such times as the regulations may provide,</li></ul> <p>and</p> <ul style="list-style-type: none"><li>(c) are to be payable in one sum or in instalments, as provided by the regulations.</li></ul> <p>(4) If a fee or instalment of a fee due under this section has not been paid, the local transport authority may decline to proceed with an application referred to in subsection (2) to which the fee or instalment relates until the fee or instalment is paid.</p>	<p><i>Section 12</i></p>
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(5) Amounts received in respect of fees charged under this section are not payable to the traffic commissioner (and accordingly may be retained by a local transport authority).

(6) Where this section applies, fees may not be charged under section 52 of the 1981 Act (as applied by section 126 of this Act) in respect of an application referred to in subsection (2).

(7) In this section—

“local transport authority” has the meaning given in section 108(4) of the Transport Act 2000;

“relevant service” has the same meaning as in section 6G;

“the relevant registration functions” has the same meaning as in section 6G.

### **6I Records of registration etc**

(1) This section applies where the relevant registration functions of a traffic commissioner are carried out by a local transport authority in accordance with section 6G.

(2) The local transport authority must keep a record of—

(a) the local services that are registered and the registrations that are varied or cancelled by the authority under section 6;

(b) the requirements imposed under section 138A(5)(b) of the Transport Act 2000 that are recorded by the authority as applying to services registered under section 6;

(c) the local services that are cancelled by the authority under section 6E.

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| <p>(3) The authority must allow the record to be inspected at all reasonable times by members of the public.</p> <p>(4) The authority must supply to a traffic commissioner particulars of—</p> <ul style="list-style-type: none"><li>(a) the local services that are registered and the registrations that are varied or cancelled by the authority under section 6;</li><li>(b) the requirements imposed under section 138A(5)(b) of the Transport Act 2000 that are recorded by the authority as applying to services registered under section 6;</li><li>(c) the local services that are cancelled by the authority under section 6E.</li></ul> <p>(5) A record kept under this section is admissible in evidence of the matters required under this section to be entered in that record.</p> <p>(6) A copy of an entry made in such a record in pursuance of this section purporting to be—</p> <ul style="list-style-type: none"><li>(a) signed on behalf of the authority by which the record is kept, and</li><li>(b) certified as a true copy,</li></ul> <p>is evidence of the matters stated in that entry without proof of the signature or authority of the person signing it.</p> <p>(7) Regulations may be made for the purpose of carrying this section into effect and any such regulations may, in particular, make provision—</p> <ul style="list-style-type: none"><li>(a) as to the form of records under this section and the particulars they must contain;</li></ul> |  |
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(b) as to the particulars to be supplied to a traffic commissioner under this section.

(8) In this section—

“local transport authority” has the meaning given in section 108(4) of the Transport Act 2000;

“the relevant registration functions” has the same meaning as in section 6G.

**6J Contracting out of registration functions: fees**

(1) Regulations may make provision about the charging of fees where an authorised person exercises a function of a traffic commissioner in relation to an application specified in subsection (2).

(2) Those applications are—

(a) an application under section 6 of this Act for the registration of a relevant service,

(b) an application under section 6 of this Act for the variation of the registration of a service that, as varied, would be or continue to be a relevant service, and

(c) an application under section 6 of this Act for the cancellation of the registration of a relevant service.

(3) Regulations under this section may allow or require the authorised person to charge fees in respect of the application to which the function relates.

(4) The regulations may—

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<p>(a) specify the fees chargeable, or</p> <p>(b) make provision about the setting of fees by the authorised person, including provision about determining the amounts of such fees.</p> <p>(5) The regulations may include provision about—</p> <p>(a) who must pay the fees and at what times, and</p> <p>(b) whether the fees are payable in one sum or in instalments.</p> <p>(6) The regulations may provide that, if a fee or instalment of a fee due under the regulations has not been paid, the authorised person may decline to proceed with an application referred to in subsection (2) to which the fee or instalment relates until the fee or instalment is paid.</p> <p>(7) The regulations may make provision about how amounts received in respect of fees charged under the regulations are to be applied.</p> <p>(8) Provision made by virtue of subsection (7) may include—</p> <p>(a) provision for such amounts not to be payable to the traffic commissioner, and</p> <p>(b) provision that such amounts are to be paid, or not to be paid, into the Consolidated Fund.</p> <p>(9) The regulations may provide that fees are not to be charged under section 52 of the 1981 Act (as applied by section 126 of this Act) in respect of the applications referred to in subsection (2).</p> <p>(10) In this section—</p>	<p><i>Section 12</i></p>
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“authorised person”, in relation to a function of a traffic commissioner, means a person authorised to exercise that function by virtue of an authorisation given in accordance with an order under section 69 of the Deregulation and Contracting Out Act 1994;

“relevant service” means a service which has stopping places only in England;

“service” has the meaning given in section 6(1).

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### **6K Traffic commissioner functions where Welsh partnership scheme in force**

(1) This section applies where—

(a) a Welsh partnership scheme specifies a service standard which is a route requirement (within the meaning given by section 114B of the Transport Act 2000), and

(b) either—

(i) a local service that is an intra-area service,

(ii) particular services at least one of which is such a service, or

(iii) a particular description of services which includes or is capable of including such a service,

must be provided in accordance with that service standard.

(2) Where two or more local transport authorities are jointly operating a Welsh partnership scheme, they must determine which of them is the lead authority for the purposes of this section.

(3) Where subsection (2) applies, references to a local transport authority in subsections (4) to (8) and sections 6L to 6N are to be read as references to the lead authority.



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<p><u>(4) The local transport authority must carry out the relevant registration functions as regards intra-area services if directed to do so by—</u></p> <p><u>(a) the Welsh Ministers, where the Welsh partnership scheme relates to an area in Wales only;</u></p> <p><u>(b) in any other case, either the Welsh Ministers or the Secretary of State.</u></p> <p><u>(5) The Welsh Ministers must notify—</u></p> <p><u>(a) a traffic commissioner of a direction given by them under subsection (4)(a);</u></p> <p><u>(b) a traffic commissioner and the Secretary of State of a direction given by them under subsection (4)(b).</u></p> <p><u>(6) The Secretary of State must notify a traffic commissioner and the Welsh Ministers of a direction given by the Secretary of State under subsection (4)(b).</u></p> <p><u>(7) On receipt of a notification given under subsection (5) or (6), the traffic commissioner must delegate the relevant registration functions to the authority and the authority must carry them out until such time as the scheme in question comes to an end.</u></p> <p><u>(8) A delegation under subsection (7) has effect from—</u></p> <p><u>(a) the date on which the scheme in question or, as the case may be, the variation of the scheme has effect, or</u></p> <p><u>(b) such later date as the traffic commissioner and the local transport authority may agree.</u></p> <p><u>(9) Where a delegation under subsection (7) has effect, sections 6AA to 6AC are to be read as if—</u></p> <p><u>(a) in section 6AA(12), for the definition of “relevant authority” there were substituted—</u></p> <p><u>““relevant authority” means a local transport authority that made the scheme</u></p>	<p><i>Section 12</i></p>
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jointly with another authority but which is not the lead authority for the purposes of section 6K;”

(b) in section 6AB—

(i) for subsection (4)(b) there were substituted—

“(b) a local transport authority which made the scheme jointly with another authority but which is not the lead authority for the purposes of section 6K,”;

(ii) in subsection (5)(b), for “a local transport authority which made the scheme (whether alone or jointly with another authority),” there were substituted “a local transport authority such as is referred to in subsection (4)(b),”;

(c) in section 6AC—

(i) for subsection (2)(b) there were substituted—

“(b) a local transport authority which made the scheme jointly with another authority but which is not the lead authority for the purposes of section 6K,”;

(ii) in subsection (5)(b), for “a local transport authority which made the scheme (whether alone or jointly with another authority)” there were substituted “a local transport authority such as is referred to in subsection (2)(b)”.

(10) In this section and in sections 6L to 6O—

“intra-area service”, in relation to a Welsh partnership scheme, means a local service that only has stopping places in the area to which the scheme relates;

“local transport authority” has the meaning given in section 108(4) of the Transport Act 2000;

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“relevant registration functions”, in relation to a Welsh partnership scheme, means the functions of a traffic commissioner under sections 6 and 6AA to 6AC so far as relating to—

(a) in the case of functions relating to the variation of registration, services that would be intra-area services if varied as proposed, or

(b) in the case of any other function, intra-area services;

“service standard” means a standard such as may be specified in a Welsh partnership scheme;

“Welsh partnership scheme” means a scheme under section 114 of the Transport Act 2000.

### **6L Local transport authority carrying out relevant registration functions: fees**

(1) Where a local transport authority is carrying out relevant registration functions, the authority may charge fees in respect of an application under section 6 for—

(a) the registration of an intra-area service;

(b) the variation of the registration of a service that, as varied, would be or would continue to be an intra-area service;

(c) the cancellation of the registration of an intra-area service.

(2) Fees under subsection (1) are—

(a) to be determined by or in accordance with regulations;

(b) to be payable by such persons and at such times as the regulations may provide;

(c) to be payable in one sum or in instalments, as provided for by the regulations.

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(3) If a fee or instalment of a fee under subsection (1) has not been paid, the local transport authority may decline to proceed with the application until the fee or instalment is paid.

(4) Amounts received in respect of fees charged under subsection (1) are payable to, and may be retained by, the local transport authority (and accordingly they are not payable to a traffic commissioner).

(5) Where a fee is chargeable under subsection (1), fees may not be charged under section 52 of the 1981 Act (as applied by section 126 of this Act) in respect of an application referred to in that subsection.

### **6M Local transport authority carrying out relevant registration functions: records of registration**

**etc.**

(1) Where a local transport authority is carrying out relevant registration functions, the authority must keep a record of—

(a) the services registered and the registrations varied or cancelled by the authority under section 6;

(b) the registration restrictions imposed under section 114(3A) of the Transport Act 2000 that are recorded by the authority as having effect in relation to services registered by the authority under section 6;

(c) the service standards in accordance with which services registered by the authority under section 6 are to be provided;

(c) the services cancelled by the authority under section 6AC.

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(2) The authority must allow the record to be inspected at all reasonable times by members of the public.

(3) The authority must supply to a traffic commissioner particulars of everything the authority keeps a record of under subsection (1).

(4) A record kept under this section is admissible in evidence of the matters required under this section to be entered in that record.

(5) A copy of an entry made in such a record in pursuance of this section purporting to be—

(a) signed on behalf of the authority keeping the record, and

(b) certified as a true copy,

is evidence of the matters stated in that entry without proof of the signature or authority of the person signing it.

**6N Local transport authority carrying out relevant registration functions: appeals**

(1) Where a local transport authority is carrying out relevant registration functions, any appeal under—

(a) section 6AA(9),

(b) section 6AB(5), or

(c) section 6AC(4) or (5),

is to be made to a traffic commissioner.

(2) On an appeal to which subsection (1) applies, a traffic commissioner may—

(a) uphold the decision,

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(b) quash the decision, or

(c) substitute for the decision made another decision that the authority could have made.

(3) Regulations may make provision—

(a) as to the time within which, and the manner in which, appeals to which subsection (1) applies may be made, and

(b) as to the procedure to be followed in connection with such appeals.

(4) A decision of a traffic commissioner on an appeal to which subsection (1) applies may be appealed to the Upper Tribunal by—

(a) the person who appealed to the traffic commissioner, or

(b) the local transport authority or authorities operating the relevant Welsh partnership scheme.

**6O Local transport authority carrying out relevant registration functions: supplemental provision**

(1) The Welsh Ministers may by regulations make such supplemental provision as they think appropriate in connection with the carrying out of relevant registration functions by a local transport authority.

(2) Regulations under subsection (1) may, in particular, include provision—

(a) about the form of records kept under section 6M(1) and the particulars they must contain;

(b) about the manner in which particulars may be supplied to a traffic commissioner under section 6M(3).

(3) Regulations under section 6L(2)(a), 6N(3) or subsection (1) of this section may be made by—

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<p><u>(a) the Welsh Ministers, in the case of regulations applying to Welsh partnership schemes relating to areas in Wales only, or</u></p> <p><u>(b) in any other case, the Secretary of State and the Welsh Ministers acting jointly.</u></p>	
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