SCOTTISH STATUTORY INSTRUMENTS

2024 No. 248

TRANSPORT

The Public Service Vehicles (Registration of Local Services) (Bus Services Improvement Partnerships Service Standards Decisions) (Appeals) (Scotland) Regulations 2024

Made - - - -	*18th September 2024*
Laid before the Scottish Parliament	*20th September 2024*
Coming into force - -	*2nd December 2024*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 6M of the Transport Act 1985(**a**) and all other powers enabling them to do so.

In accordance with section 61(2) of the Public Passenger Vehicles Act 1981(**b**), they have consulted with such representative organisations as they think fit.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Public Service Vehicles (Registration of Local Services) (Bus Services Improvement Partnerships Service Standards Decisions) (Appeals) (Scotland) Regulations 2024 and come into force on 2 December 2024.

(2) In these Regulations—

"local transport authority" has the meaning given in section 82(1) of the Transport (Scotland) Act 2001(**c**),

"service standards decision" means a determination of the traffic commissioner specified in section 6M of the Transport Act 1985, and

"traffic commissioner" means the person appointed from time to time to be the commissioner for the Scottish Traffic Area under section 4 of the Public Passenger Vehicles Act 1981(**d**).

(**a**) 1985 c. 67 ("the 1985 Act"). Section 6M was inserted by section 37 of the Transport (Scotland) Act 2019 (asp 17). Section 134 of the 1985 Act provides that section 60 of the Public Passenger Vehicles Act 1981 (c. 14) ("the 1981 Act") has effect as if Parts I and II of the 1985 Act were contained in that Act. Section 60(2) of the 1981 Act contains a definition of "regulations" relevant to the exercise of the powers under which these Regulations are made. The functions of the Secretary of State under section 60 of the 1981 Act were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46).

(**b**) Section 135 of the 1985 Act provides that section 61 of the 1981 Act has effect as if Parts I and II of the 1985 Act were contained in that Act. The functions of the Secretary of State under section 61 of the 1981 Act were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998.

(**c**) 2001 asp 2. Section 82(1) was relevantly amended by article 6(2) of the Transport Partnerships (Transfer of Functions) (Scotland) Order 2024 (S.S.I. 2024/161).

(**d**) Section 4 was amended by section 3(2) of the 1985 Act, sections 2 and 3 of the Local Transport Act 2008 (c. 26), and section 121 and paragraph 17 of Schedule 1 of the Public Service Pensions and Judicial Offices Act 2002 (c. 7).

Appeals to the Upper Tribunal for Scotland

2.—(1) An appeal against a service standards decision may be made to the Upper Tribunal for Scotland by—

(a) a person who is, or would be, the operator of the service to which the service standards decision relates,

(b) a local transport authority who made the bus services improvement partnership scheme under section 3B of the Transport (Scotland) Act 2001(**a**) to which the service standards decision relates.

(2) Where a scheme mentioned in paragraph (1)(b) is made by two or more local transport authorities acting jointly, those authorities may jointly appeal against a service standards decision.

Powers of the Upper Tribunal for Scotland

3.—(1) On an appeal against a service standards decision, the Upper Tribunal for Scotland may—

(a) dismiss the appeal, or

(b) allow the appeal and quash the decision.

(2) If the Upper Tribunal for Scotland quashes the service standards decision, it must—

(a) reconsider the matter itself and may make a determination of the type described in section 6M of the Transport Act 1985, or

(b) remit the matter to the traffic commissioner to decide whether to make a new service standards decision.

(3) The Upper Tribunal for Scotland may make such other order on an appeal against a service standards decision as it considers appropriate.

(4) When considering an appeal against a service standards decision, including any reconsideration of the matter under paragraph (2)(a), the Upper Tribunal for Scotland may not take into consideration any circumstances which did not exist at the time of the service standards decision which is the subject of the appeal.

JIM FAIRLIE
Authorised to sign by the Scottish Ministers

St Andrew's House,
Edinburgh
18th September 2024

(**a**) 2001 asp 2. Section 3B was inserted by section 35 of the Transport (Scotland) Act 2019 (asp 17).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision for appeals relating to the determinations of the traffic commissioner listed in section 6M of the Transport Act 1985 ("service standards decisions").

Sections 3A to 3M of the Transport (Scotland) Act 2001 (the "2001 Act") provide for bus services improvement partnerships ("BSIPs"). BSIPs involve local transport authorities (defined by section 82(1) of the 2001 Act) formulating a plan with operators of local bus services in their area and then deciding how best to implement the plan through supporting schemes ("partnership schemes"). A partnership scheme imposes one or more service standards in relation to the local services that have one or more stopping places in the area.

Service standards decisions are determinations by the traffic commissioner about the registration of a local service under section 6 of the Transport Act 1985, related to service standards imposed by a partnership scheme.

Regulation 2 provides that appeals may be made against service standards decisions to the Upper Tribunal for Scotland. An appeal may be made by two categories of person: the person who is the operator, or would be the operator, of the service to which the service standards decision relates; and the local transport authority who made the partnership scheme to which the service standards decision relates. Where a partnership scheme is made by two or more local transport authorities acting jointly, regulation 2 provides that those authorities may jointly appeal against a service standards decision.

Regulation 3 sets out the powers of the Upper Tribunal for Scotland in relation to appeals against service standards decisions. The Upper Tribunal may dismiss the appeal or allow it and quash the service standards decision. If the Upper Tribunal allows the appeal and quashes the decision, it must reconsider the matter itself and possibly make a new service standards decision, or remit the matter to the traffic commissioner for reconsideration. The Upper Tribunal may also make any such other order on an appeal against a service standards decision as it considers appropriate. Regulation 3 also limits the circumstances which the Upper Tribunal may take into consideration when considering appeals against service standards decisions.

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