TRANSPORT ACT (NORTHERN IRELAND) 2011

EXPLANATORY NOTES

INTRODUCTION

1. These Explanatory Notes relate to the Transport Act (Northern Ireland) 2011 which received Royal Assent on 16 March 2011. They have been prepared by the Department for Regional Development in order to assist the reader in understanding the Act. They do not form part of the Act and have not been endorsed by the Assembly.

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

BACKGROUND AND POLICY OBJECTIVES

3. The main purpose of the Act is to create an effective, efficient and sustainable public transport system that contributes to the Executive's transportation, environmental, social inclusion and equality objectives.

4. This will be achieved through the introduction of new service delivery arrangements that will enable the Department to contract with public transport operators while ensuring compliance with EC Regulation 1370/2007. This will include powers to award contracts for Bus Rapid Transit.

5. Under the Transport Act (Northern Ireland) 1967, the Department of the Environment is responsible for granting Road Service Licences for the carriage of passengers and their luggage by road. This licence includes both an operator element and a route/service element. This Act amends the definition and function of the Road Service Licence to a Bus Operator's Licence which remains the responsibility of the Department of the Environment. The Department for Regional Development will become responsible for public transport service delivery through the contracting and service permit systems which are introduced in this Act.

CONSULTATION

6. The Department held a public consultation on its public transport reform policy proposals between 9 November 2009 and 5 February 2010. There were 103 written replies received. Eleven public meetings were held during the public consultation period, with a total of 194 attendees.

7. The Department carried out a public consultation on the Bus Rapid Transit policy proposals between 23 November 2009 and 19 February 2010. There were 36 written replies received.

OVERVIEW

8. The Act contains the necessary powers relating to the regulation of public transport service delivery in Northern Ireland. It covers the duty of the Department to secure the provision of public passenger transport services, the power to enter into agreements and to award service permits for that purpose, the ability to attach conditions to and vary a service permit along with powers for the revocation, suspension and curtailment of service permits. It creates offences and provides enforcement powers in respect of the contracting/service permit regime. The Act provides power for the Department to regulate fares, designate bus stations/premises as shared facilities, regulate passenger conduct in bus premises, provide integrated and on-street ticketing systems, make grants for the provision of bus services of benefit to certain sections of the public, acquire and dispose of land, provide vehicles and facilities for public transport purposes, and exploit commercial opportunities arising from its public transport functions.

9. The Act has 49 sections and 2 Schedules. A commentary on the provisions follows below. Comments are not given where the wording is self-explanatory.

COMMENTARY ON SECTIONS

Section 1 imposes a duty on the Department to secure the provision of public transport services in Northern Ireland and provides mechanisms for the Department to do so through service agreements and service permits for public transport services, and agreements for services ancillary to the provision of public transport services. It also allows the Department to determine the general level and structure of fares for these services, to provide vehicles, ticketing machines and systems, and to exploit any commercial opportunities which the Department considers appropriate. Most public passenger transport services will be awarded directly to the Northern Ireland Transport Holding Company and its subsidiaries, as the publicly-owned internal operator, under a service agreement in compliance with EC Regulation 1370/2007. This section also creates an offence to operate unregulated services.

Section 2 deals with service agreements in more detail. It provides the Department with the power to make regulations as to the content of service agreements. It also provides that service agreements can include the award of "public service contracts" in accordance with EC Regulation 1370/2007 and allows the Department to make provision for the review of decisions made in respect of the award of service agreements, as required by the Regulation.

Sections 3 to 12 deal with the process for granting service permits. These sections provide for the information that an applicant will have to furnish in the application, the matters to be taken into account by the Department when considering an application, the attachment of conditions to a permit, disqualification of operators from being able to hold a permit, and the revocation, suspension and curtailment of permits for any reasonable cause and other specified grounds as outlined.

Sections 13 deals with the payment of fees for permit applications and issuing of permits.

Section 14 provides that permits are neither transferable nor assignable. However, it also allows the Department to make directions for permits to be treated as held by another person in circumstances where the permit-holder dies or becomes a patient under the Mental Health (Northern Ireland) Order 1986.

Section 15 allows the Department to make regulations to provide that service agreements with and service permits held by a company or other body corporate also applies to services provided by any of its subsidiaries.

Under section 16, it is an offence to forge, alter or use a permit with intent to deceive. It is also an offence under section 17 to knowingly make a false statement or produce false or misleading material in relation to an application for a service permit.

Sections 18 to 21 deal with the separation of bus operator and bus service licensing. Sections 18, 19 and 20 amend the function and name of the "Road Service Licence" in the Transport Act (Northern Ireland) 1967. Section 21 deals with amendments to the Taxis Act (Northern Ireland) 2008 as a result of the changes to the current "Road Service Licence".

Section 22 amends the duty of Northern Ireland Railways under section 55 of the Transport Act (Northern Ireland) 1967 to reflect that this duty is to be exercised in accordance with any agreement entered into under this Act.

Sections 23 and 24 provide arrangements for the production by the Consumer Council of a forward work programme in relation to its transport functions and for the production of a memorandum by the Department and the Consumer Council detailing arrangements for co-operation and consistent treatment of matters in relation to the Consumer Council's transport functions.

Sections 25 to 31 set out the provisions on the enforcement of the provision of public transport services. The Department has the power to enter into and inspect certain premises that are being used in connection with the carriage of passengers and their luggage by road and to seize certain documents and obtain certain information. It is an offence to obstruct an authorised officer in the exercise of functions under the Act. Section 31 provides for prosecutions for offences under this Act.

Sections 32 to 37 deal with the payment of grants by the Department in relation to the provision of public transport services, provision of advice, information or training relating to public transport services and capital expenditure for the purchase of vehicles.

Sections 38 to 40 provide for the acquisition and disposal of land, including powers for the Department to obtain information as to ownership of land and to enter onto land.

Section 41 applies section 18(2) of the Interpretation Act (Northern Ireland) 1954 to appointments to the Northern Ireland Transport Holding Company made under section 47 of the Transport Act (Northern Ireland) 1967 to include power to remove or suspend persons from appointments under that section.

Section 42 provides the Department with the power to make regulations in respect of the conduct of persons at bus stations.

Section 43 gives the Department the power to issue directions in respect of the shared use of facilities used for the provision of services under a service agreement.

Sections 45 to 49 contain a number of miscellaneous and supplementary provisions, including powers to make regulations.

HANSARD REPORTS

The following table sets out the dates of the Hansard reports for each stage of the Act's passage through the Assembly.

STAGE	DATE
Introduction to the Assembly	21 June 2010
Second Stage debate	29 June 2010
Committee Stage	8 September 2010
Committee Stage	15 September 2010
Committee Stage	22 September 2010
Committee Stage	29 September 2010
Committee Stage	05 October 2010
Committee Stage	20 October 2010
Committee Stage	10 November 2010
Committee Stage	17 November 2010
Committee Stage	24 November 2010
Committee Stage	01 December 2010
Committee Stage	08 December 2010
Consideration Stage	24 January 2011
Further Consideration Stage	01 February 2011
Final Stage	01 February 2011
Royal Assent	16 March 2011

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