POLICY NOTE

THE TRANSPORT PARTNERSHIPS (TRANSFER OF FUNCTIONS) (SCOTLAND) ORDER 2024

SSI 2024/161

The above instrument was made in exercise of the powers conferred by section 10(1) and 52(4) of the Transport (Scotland) Act 2005 (asp 12). The instrument is subject to the affirmative procedure.

Purpose of Instrument: The purpose of this Order is to give the regional Transport Partnerships (RTPs) Shetland Transport Partnership (known as "ZetTrans"), South-West of Scotland Transport Partnership (known as "SWestrans") and West of Scotland Transport Partnership (known as "Strathclyde Partnership for Transport" ("SPT")), the ability to exercise certain functions related to bus services under the Transport (Scotland) Act 2001 ("the 2001 Act"), as amended by the Transport (Scotland) Act 2019 ("the 2019 Act").

Policy Objectives

The purpose of the order is to give the three RTPs described above the ability to exercise certain functions related to bus services that were introduced to the 2001 Act by the 2019 Act. The 2019 Act replaced existing powers under the 2001 Act which allowed local transport authorities to put in place schemes for Quality Partnerships and Quality Contracts, substituting them with Bus Services Improvement Partnerships (BSIPs) and Franchising Frameworks respectively. The 2019 Act also provides local transport authorities with a new power to run their own bus services which sits alongside their existing ability to subsidise services.

The RTPs to which this Order relates previously had the power to form Quality Partnerships and Quality Contracts, functions that were transferred to them from their local transport authorites by Orders under section 10 of the Transport (Scotland) Act 2005 which were laid in 2006[1][2][3]. As of 4 December 2023, the Quality Partnership and Quality Contract functions were repealed by the 2019 Act and can no longer by used by the RTPs. In order for the RTPs to be able to use the replacement functions in the amended 2001 Act, as well the new power to run their own services, a new Order under section 10 of the Transport (Scotland) Act 2005 is required. This Order is intended to ensure continuity of powers for affected RTPs.

These functions will be transferred so they are held concurrently, meaning they would be held by both the RTP and the local transport authority. It is considered that this approach will afford maximum flexibility in how the powers may be exercised.

EU Alignment Consideration

This instrument is not relevant to the Scottish Government's policy to maintain alignment with the EU.

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[1] https://www.legislation.gov.uk/ssi/2006/106/contents/made

[2] https://www.legislation.gov.uk/ssi/2006/527/contents/made

[3] https://www.legislation.gov.uk/ssi/2006/538/made?view=plain

Consultation
To comply with the requirements of section 10(8) of the Transport (Scotland) Act 2005, the Scottish Government via its agency Transport Scotland carried out a consultation with the RTPs affected by the proposed transfer of functions order, and their constituent local transport authorities. The consultation took place from 31 January 2024 to 4 March 2024.

The results of the consultation were that responses were received from all three RTPs, all of which were supportive of the proposed order. A response was also received from SPT on behalf of the Scottish Passenger Transport Authority, (SPTA), also supportive of the proposals.

Responses were received from two of SPT / SPTA's constituent local authorities, North Ayrshire Council and South Lanarkshire Council, which were also supportive of the order. Shetland Islands Council responded, saying they had no concerns with the proposed order.

As a result of that consultation, as no objections were received, the Scottish Government agreed to pursue the transfer of functions order as proposed in the consultation.

Impact Assessments
It is not considered necessary to conduct impact assessments for this instrument. The following impact assessments were conducted in relation to the implementation of the bus provisions contained in Part 3 of the 2019 Act:

- An Equalities Impact Assessment
- A partial Business and Regulatory Impact Assessment
- A Child Rights and Wellbeing Impact Assessment
- An Islands Screening Assessment
- A Fairer Scotland Duty Impact Assessment

There are no significant equalities or rights impacts that require further consideration in relation to the commencement of these regulations.

Financial Effects
As stated above a partial Business and Regulatory Impact Assessment ("BRIA") was completed for the implementation of Part 3 of the 2019 Act. The financial impacts of transferring the powers contained by section 10(1) and 52(4) of the 2005 Act are likely to be minimal because they are simply replacing functions that specific RTPs held under the 2001 Act.

No BRIA is necessary as the instrument has no financial effects on the Scottish Government, local government or on business.

Scottish Government
Transport Scotland
March 2024