

**Appendix 1 – Draft Council Response to Transport Bill**

## **Draft Council Response to the proposed Transport Bill**

Belfast City Council welcomes this opportunity to respond to the Transport Bill. We take this opportunity confirm that there will be Council representation at the oral briefings to the Committee.

As outlined in the response to the previous consultation on Public Transport Reform, Belfast City Council does not support the proposed creation of a new agency with within the Department for Regional Development with responsibility for public transport provision. The main issues relate to the uncertainty in respect of provision to ensure local accountability for the proposed transport agency.

There has been a considerable shift from the 2006 position which included an option of transferring responsibility for public transport to local councils under the Review of Public Administration to the current proposals whereby local council involvement in minimal. After consideration of the Transport Bill the Council's initial concerns remain.

The Council considers that effective local public transport is a critical for the continued development of the City in terms of community well-being; connectivity; and continuing to attract local enterprise and trade. Integrated public transport will be one of the key facets in the future development of the City; it is therefore essential that direct channels and formal mechanisms are provided for local council involvement in the future of public transport.

Despite the delay in the Review of Public Administration it has been made clear by the Minister of the Environment that local Councils can expect to receive a range of additional functions or responsibilities. Included within this transfer of functions is a Community Planning responsibility for local Councils. A priority for the Council will be to ensure the integration between land use planning, community planning and transportation: a coordinated approach to local service delivery across agencies is a necessity.

It should be noted that the Council, in exercising these functions, would seek to support local residents and communities by ensuring an approach that integrates transportation to enhance connectivity for local neighbourhoods thereby making them safer, healthier and more inclusive.

As stated by the Department in the *Final Rapid Transit Consultation Report* there is considerable overlap of legislative requirement between rapid transit and public transport reform. The Department consistently responded to our concerns in the rapid transit consultation by stating that the Council would be a key stakeholder in taking the project forward. The Council feels that to be fully involved in the future of public transport, particularly the rapid transit proposals, there must be some formal engagement processes proposed between the new agency and the Council.

The detailed comments in relation to the specific clauses contained in the draft Bill are outlined below:

### **Clause 1 - Provision of public passenger transport services**

*imposes a duty on the Department to secure the provision of public transport services in NI 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. This clause also creates an offence to operate unregulated services.*

Local public transport networks to support communities should be an important consideration of the commissioning and regulation framework. The specifications for the contracts and permits must be developed through consultation to establish the service requirements for an area including the involvement of the public transport providers. The development of local transport plans between the DRD (agency) and local councils offers the opportunity for the community to influence service provision within the context of strategic and longer term Transport Plans.

The draft Bill explanatory memorandum (Para 18) in considering the regulatory impact refers to the potential benefits to operators from the opportunity to “participate in the development of local public transport plans”. Public Transport is an important local service and will be an important element of local strategies to progress Community Planning and influence statutory land-use planning. The Council would wish to see the Bill provide for a more integrated approach to public transport on a number of levels. It is essential that the proposed Bill provides for accessible local provision and links plans, resources, partners and service procurement / commitments.

The Council would be supportive of the proposals regarding integrated ticketing, which will allow for better journey planning.

#### **Clause 2 - Service Agreements**

*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.*

The potential exists for private sector providers to fill gaps and complement existing service provision and the Council would encourage this approach in the context of a local transport plan providing better liaison and integration between public and private contracts.

#### **Clauses 3 to 12 - Service Permits**

*deal with the process for granting service permits. These clauses 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 outlined. Clause 6 outlines that in deciding whether to issue or refuse a permit or to attach conditions to a permit, the Department should have regard for the sustainability of routes on which the service may be provided and the extent to which the needs of persons likely to use the service to be provided are already adequately and economically served. The Department will also have to take into account any recommendations made by the Consumer Council and any representations by persons already providing public passenger transport services on any road along or near the routes which are the subject of the application, the Chief Constable, district councils, any NI government department and NITB.*

The Council is concerned that initial proposals included the option of transferring responsibility for public transport to the new local councils proposed under the Review of Public Administration. This option was abandoned by DRD on the basis of the revised RPA proposals for the retention of local roads functions within the Department for Regional Development. The Council had requested clarification of the basis for the decision to

abandon the council led agency option from detailed consideration and the subsequent failure to clarify the role of local councils in this important local service.

*"In August 2006 the then Regional Development Minister, David Cairns, announced the Government's intention to develop the bus and rail public transport services around the new three-tier model outlined above. The announcement was made against the backdrop of the Review of Public Administration (RPA) and it was envisaged that the new middle-tier body would be under the control of local Councils acting together in the form of a Passenger Transport Authority. Following the recent RPA local government review, however, the Executive has now decided that mainstream local roads functions will no longer be devolved to councils but instead retained within DRD. In light of this decision and the close interrelationship between public transport, roads and traffic management issues, the Executive agreed that the Minister should reconsider the future arrangements for public transport, including mechanisms for ensuring local government input to decision making."*

There is concern with the change in approach attributed to RPA changes in terms of the shift from local authority responsibility to a very limited involvement, and accountability confined to the Minister on the basis of the narrow strategic business case conclusions:

*"Although this was the favoured model [local authority control] for the previous administration, and would enable the achievement of many of the reform process objectives, it has been decided not to consider this model further due to recent RPA statements and implementation complexities."*

Whilst the Bill states under Clause 6 ("Service Permits") that the Department must have regard to any representations made by a District Council there is consistent lack of clarity in respect of the formal role for local Councils in the future of local public transport. Outside of Clause 6 there is no further reference to Council involvement. There is no mechanism proposed or outline of how the new agency process will work within the draft Bill.

As outlined above local public transport networks to support communities should be an important consideration of the commissioning and regulation framework. There needs to be strategic linkages between the proposed transport agency, DRD, Translink and local community planning/ local area transport planning structures. Local government working with local communities could more effectively identify the local issues and link to the central government strategic policy. Although there is uncertainty as to the methodology and timeframe for taking community planning forward, it is clear that there is a strong link between the place shaping role of local councils and the provision of public transport. There should also be a mechanism for democratic approval of local public transport plans that could provide the context for contracts and permits.

The draft Bill explanatory memorandum (Para 13) in considering the Financial Effects of the Bill outlines potential additional costs from the creation of the new transport agency which are attributed to new work such as "local planning". Whilst appropriately targeted increased public transport funding would be welcomed where it enhances delivery and provides value for money in the absence of details in respect of the agency and the structural relationships it is impossible to gauge the potential value. Greater clarity is also required in relation to funding for local transport plans, which must be developed in conjunction with community planning/ local transport area planning. It is important to ensure the alignment of policy, community requirements and resource prioritisation, focusing on the integration and needs. Local councils should have a meaningful role in the prioritisation of local actions and resources, and should have an input into strategic decisions.

**Clause 13 – Fees**

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

The charges and processes should be reasonable and reflective of the direct costs associated with applications.

**Clause 14 – Permits not to be transferable**

*provides that permits are neither transferrable nor assignable. It also allows the Department to make directions for the treatment of permit in circumstances where the permit-holder dies or becomes a patient under the Mental Health (NI) Order 1986.*

**Clause 15 – Holding Companies and Subsidiaries**

*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.*

**Clause 16 – Forgery, etc.**

*creates the offence to forge, alter or use a permit with intent to deceive. It will also be an offence under clause 17 to knowingly make a false statement or produce false or misleading material in relation to an application for a service permit.*

**Clause 18 to 21 – Buses, Taxis and Trains**

*amend the function and name of the 'Road Service Licence' in the Transport Act (NI) 1967. Clause 21 deals with amendments to the Taxis Act (NI) 2008 as a result of the changes to the current 'Road Service Licences'.*

**Clause 22 – Provision of Railway Services**

*amends the duty of NI Railways under section 55 of the Transport Act (NI) 1967 to reflect that this duty will be exercised in accordance with any agreement under the Transport Act (NI) 2010.*

No comments

**Clauses 23 and 24 – Consumer Council**

*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.*

Clauses 23 and 24 ("Consumer Council") of the Transport Bill outline the arrangements for the relationship between the Consumer Council and the Department. The Council is concerned at the lack detail in respect of the provisions for local accountability proposed within this arrangement.

It was previously suggested that the Consumer Council will have formal role in relation to the new public transport agency and that the new agency would have a formal consultative role in the planning system. There are no provisions within the Bill for changes in the relationship between local councils and the Consumer Council or consultation requirements. The Bill

does not include any reference to the potential statutory planning role for any new transport agency.

Whilst the Consumer Council may be considered to provide or represent the wider interests on the Agency this does not ensure local democratic accountability enable effective local integration or implementation of the new proposals.

#### **Clauses 25 to 31 – Enforcement**

*set out the provisions on the enforcement of the provision of public transport services. The Department will have 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 will be an offence to obstruct and authorised officer in the exercise of functions under the Act. Clause 31 provides for prosecutions for offences under this Act.*

#### **Clauses 32 to 37 – Grants**

*Clauses 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.*

#### **Clauses 38 to 40 – Acquisition and disposal of land**

*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.*

#### **Clause 41 – Appointment of directors of NI Transport Holding Company**

*applies section 18(2) of the Interpretation Act (NI) 1954 to appointments to the NI Transport Holding Company made under section 47 of the Transport Act (NI) 1967 to include power to remove or suspend persons from appointments under this section.*

#### **Clause 42 – Conduct of persons at bus stations**

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

No comments

#### **Clause 43 – Shared Transport Facilities**

*Clause 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.*

It will be important for all transport services to have access to bus stations to ensure integration of service provision, and certainty, alternative private, community or social enterprise providers should be encouraged to utilise facilities through specification and procurement processes.

#### **Clauses 45 to 50 - Miscellaneous and Supplementary**

*Clauses 45 to 50 contain a number of miscellaneous and supplementary provisions, including powers to make regulations. Clause 45 provides for the Department to make orders, subject to affirmative resolution, for any further provisions in connection with this Act.*

No comments

### **Additional Comments**

The Bill does not include any reference to the potential statutory planning role for any new transport agency. The Council would have concerns in relation to the with the proposed role for the new Agency in relation to Planning Applications and Development Plans as outlined in previous consultations. This could introduce additional complexity in relation to the determination of applications and affect the discretionary Council responsibility in respect of any developer contributions.

## **Appendix 2– Draft Transport Bill**

### **Transport Bill**

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## **PART 1**

### **PUBLIC PASSENGER TRANSPORT SERVICES**

#### **General**

#### **Provision of public passenger transport services**

1. -(1) The Department must secure the provision of public passenger transport services with due regard to economy, efficiency and safety of operation.

(2) For that purpose the Department may -

(a) enter into agreements with any operator for the provision of public passenger transport services;

(b) enter into agreements with any person for the provision of services which are ancillary to public passenger transport services;

(c) issue permits to any operator for the provision of non-contracted services;

(d) determine the general level and structure of fares for services provided under a service agreement or a service permit;

(e) provide vehicles, ticketing machines and systems, and other facilities on such terms as the Department thinks fit; and

(f) exploit any commercial opportunities which the Department considers appropriate.

(3) The Department must, subject to subsection (1) and Regulation (EC) No. 1370/2007, secure that most public passenger transport services continue to be provided by the Holding Company and its subsidiaries.

(4) In this Act -

“public passenger transport services” means services available to the general public for the carriage of passengers and their luggage by road or rail at separate fares;

“service agreement” means an agreement entered into under this section;

“service permit” means a permit issued under this section.

(5) In this section -

“the Holding Company” has the same meaning as in the 1967 Act;

“non-contracted services” means public passenger transport services for the provision of which there is no service agreement, excluding rail services;

“operator” means -

(a) the railway undertaking; or

(b) any person who holds an operator’s licence;

“operator’s licence” means -

(a) a licence under Part 2 of the 1967 Act; or

(b) an operator’s licence within the meaning of the Taxis Act (Northern Ireland) 2008

(c. 4);

“the railway undertaking” has the same meaning as in the 1967 Act.

(6) References in this Act to the provision of services under a service agreement include references to securing the provision of services.

(7) A person who, without reasonable excuse, provides an unregulated service shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(8) In subsection (7), “unregulated service”, in relation to a person, means a public passenger transport service other than an exempt service or a service for the provision of which -

(a) there is a service agreement with that person; or

(b) that person holds a service permit or is otherwise authorised to provide that service.

(9) The Department may by regulations make provision as to services which are to be treated as exempt services for the purposes of subsection (8).

### **Service agreements**

#### **Service agreements**

2. -(1) The Department may by regulations make provision as to matters which may or must be dealt with in service agreements.

(2) The power conferred by section 1(2) to enter into service agreements includes power to award public service contracts in accordance with Regulation (EC) No. 1370/2007.

(3) The Department may by regulations make provision for the review of decisions required by Article 5(7) of that Regulation.

### **Service permits**

#### **Interpretation**

3. In sections 4 to 17 "permit" means a service permit.

#### **Applications**

4. -(1) An application for a permit shall be made to the Department.

(2) The application for a permit must be made in such form, and include such declarations and information, as may be prescribed.

(3) Without prejudice to subsection (2), regulations under that subsection shall require the applicant to provide prescribed particulars as to -

- (a) the services to be provided under the permit; and
- (b) the vehicles to be used on those services.

(4) The Department may require an applicant to provide, in such form as the Department may require, such further information as the Department may consider necessary for dealing with the application.

(5) If a person fails, without reasonable excuse, to provide information when required to do so under subsection (4), the Department may decline to proceed further with the application and refuse to issue the permit.

#### **Notification of subsequent events**

5. -(1) A person who has made an application for a permit shall notify the Department if, in the interval between the making of the application and the date on which it is disposed of, there occurs any prescribed event affecting any information given to the Department under section 4.

(2) A person who knowingly fails to comply with subsection (1) shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(3) For the purposes of this section an application shall be taken to be disposed of -

- (a) in a case where the Department is required by virtue of regulations under section 46(2)(a) to cause a statement containing its decision on the application to be issued, on the date on which that statement is issued, and
- (b) in any other case, on the date on which the applicant receives notice from the Department of its decision on the application.

#### **Matters to which Department must have regard**

6. -(1) In deciding whether to issue or refuse a permit or to attach conditions to a permit, the Department shall in particular have regard (where appropriate) to the following matters -

- (a) the suitability of the routes on which the service may be provided under the permit;
- (b) any applications for permits which the Department considers relevant;
- (c) the extent, if any, to which the needs of persons likely to use the service to be provided are already adequately and economically served;
- (d) the general effect which the grant of the permit would be expected to have on -
  - (i) other holders of permits;

- (ii) persons with whom the Department has a service agreement;
  - (e) the need for ensuring fair competition among persons providing public passenger transport services;
  - (f) such other matters as may be prescribed.
- (2) The Department shall also take into account -
- (a) any recommendations made by the Consumer Council;
  - (b) any representations by -
    - (i) persons already providing public passenger transport services on any road along or near the routes which are the subject of the application;
    - (ii) the Chief Constable;
    - (iii) a district council;
    - (iv) a Northern Ireland department; or
    - (v) the Northern Ireland Tourist Board.

### **Duration**

7. -(1) A permit shall, unless previously revoked, continue in force for a period of three years from the date on which it is expressed to take effect or such other period as may be specified in the permit.
- (2) Nothing in this section shall prevent the attachment to a permit of a condition that the service shall be limited to one or more than one particular period or occasion.
- (3) If the holder of a permit requests the Department to terminate it at any time, the Department shall comply with the request unless it is considering giving a direction in respect of the permit under section 10.
- (4) If on the date of the expiration of a permit an application is before the Department for the grant of a new permit in substitution for an existing permit held by the applicant, the existing permit shall continue in force until the application is disposed of.
- (5) If on the date of the expiration of a permit the permit is, by virtue of regulations under section 14(2), held by a person other than the person to whom the permit was issued, the permit shall continue in force until the application by that other person is disposed of in accordance with those regulations.
- (6) A permit held by an individual terminates if -
- (a) the individual dies, or
  - (b) the individual becomes a patient within the meaning of Article 2(2) of the Mental Health (Northern Ireland) Order 1986 (NI 4).

### **Variation**

8. -(1) On the application of the holder of a permit or otherwise, the Department may vary the permit.
- (2) An application for the variation of a permit under this section must be made in such form and include such declarations and information as may be prescribed.
- (3) The Department may require an applicant to furnish such other information as it considers necessary for dealing with the application.
- (4) Section 5 shall apply for the purposes of this section as it applies for the purposes of section 4.

### **Conditions**

9. -(1) On issuing a permit or on varying a permit under section 8, the Department may attach to the permit such conditions as it thinks fit.
- (2) On varying a permit under section 8, the Department may vary or remove any condition attached to the permit under this section.
- (3) Any person who contravenes any condition attached under this section to a permit of which that person is the holder shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(4) If any person acting with the knowledge or consent of the holder of a permit contravenes any condition attached to it under this section, the holder of the permit shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

### **Revocation, suspension and curtailment of permits**

10. -(1) Subject to the following provisions of this section and the provisions of section 12, the Department may direct that a permit be revoked, suspended or curtailed (within the meaning given in subsection (6)) for any reasonable cause including any of the following -

- (a) that the permit-holder has contravened any condition attached to the permit;
- (b) that during the 3 years ending with the date on which the direction is given there has occurred a prescribed event affecting information required to be given to the Department under section 4 or 5;
- (c) that the permit-holder made, or procured to be made, for the purposes of the permit-holder's application for the permit, a statement of fact that, whether to the permit-holder's knowledge or not, was false, or a statement of expectation that has not been fulfilled;
- (d) that the permit-holder, being an individual, has been adjudged bankrupt or, being a company, has gone into liquidation, other than voluntary liquidation for the purposes of reconstruction;
- (e) that since the permit was issued there has been a material change in any of the circumstances of the permit-holder that were relevant to the issue or variation of the permit;
- (f) that the permit is liable to revocation, suspension or curtailment by virtue of a direction given under section 11(3);
- (g) that an operator's licence (within the meaning of section 1) held by the permit-holder has been revoked or suspended or has expired;
- (h) that the Department considers that it is in the public interest for any service specified in the permit to be provided under a service agreement.

(2) Where the Department has power to give a direction in respect of a permit under subsection (1) the Department also has power to direct that a condition be attached to the permit.

(3) Where the existence of any of the grounds mentioned in subsection (1) (except paragraph (h)) is brought to the notice of the Department, the Department shall consider whether or not to give a direction under this section in respect of that permit.

(4) Where the Department has given a direction suspending or curtailing a permit under subsection (1) it may -

- (a) cancel the direction;
- (b) with the consent of the permit-holder, vary the direction.

(5) Where a permit is suspended under this section, the permit remains in force during the time of its suspension subject to the limitation that no services are authorised to be provided under it.

(6) In this Act references to directing that a permit be curtailed are references to directing (with effect for the remainder of the duration of the permit or for any shorter period) either or both of the following -

- (a) that one or more of the vehicles specified in the permit be removed from it; and
- (b) that one or more of the services specified in the permit be removed from it.

### **Disqualification**

11. -(1) Where, under section 10(1), the Department directs that a permit be revoked, the Department may order the person who was the holder of the permit to be disqualified (either indefinitely or for such period as the Department thinks fit) from holding or obtaining a permit; and so long as the disqualification is in force, notwithstanding anything in section 6, no permit may be issued to that person.

(2) If a person applies for or obtains a permit while disqualified under subsection (1) -

- (a) the person shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale, and

(b) any permit issued on the application, or (as the case may be) the permit obtained by that person, shall be void.

(3) Where the Department makes an order under subsection (1) in respect of any person, the Department may direct that if that person, at any time or during such period as the Department may specify -

(a) is a director of, or holds a controlling interest in -

(i) a company which holds a permit of the kind to which the order in question applies,  
or

(ii) a company of which such a company is a subsidiary, or

(b) provides any service in partnership with a person who holds such a permit, that permit of that company or, (as the case may be), of that person, shall be liable to revocation, suspension or curtailment under section 10.

(4) The powers conferred by subsections (1) and (3) in relation to the person who was the holder of a permit shall be exercisable also -

(a) where that person was a company, in relation to any director of that company, and

(b) where that person provided any service under the permit in partnership with other persons, in relation to any of those other persons;

and any reference in this section or in section 10 or 12 to subsection (1) or (3) includes a reference to that subsection as it applies by virtue of this subsection.

(5) Where the Department makes any order disqualifying a person under subsection (1), it may at any time -

(a) cancel that order together with any direction that was given under subsection (3) when the order was made;

(b) cancel any such direction; or

(c) with the consent of the person disqualified, vary the order or any such direction (or both the order and any such direction).

(6) Where a permit is suspended under this section, the permit remains in force during the time of its suspension subject to the limitation that no services are authorised to be provided under it.

(7) For the purposes of this section, a person holds a controlling interest in a company if the person is the beneficial owner of more than half its equity share capital (as defined in section 548 of the Companies Act 2006 (c. 46)).

#### **Revocation, disqualification, etc.: supplementary provisions**

12. -(1) The Department shall not -

(a) give a direction under section 10(1) or (2) in respect of any permit, or

(b) make an order or give a direction under section 11(1) or (3) in respect of any person,

without first giving the holder of the permit or (as the case may be) the person concerned notice that it is considering doing so and holding an inquiry if the holder of the permit or (as the case may be) the person concerned requests the Department to do so.

(2) The Department may direct that any direction or order given or made by it under -

(a) section 10(1) or (2), or

(b) section 11(1) or (3),

shall not take effect until the expiry of the time within which an appeal may be made to the Upper Tribunal against the direction or order and, if such an appeal is made, until the appeal has been disposed of.

(3) If the Department refuses to give a direction under subsection (2) the holder of the permit or (as the case may be) the person in respect of whom the direction or order was given or made may apply to the Upper Tribunal for such a direction.

(4) The Upper Tribunal shall give its decision on any application under subsection (3) within 14 days.

(5) An order under section 11(1) is not a statutory rule for the purpose of the Statutory Rules (Northern Ireland) Order 1979 (NI 12).

### **Miscellaneous**

#### **Fees**

13. -(1) Such fees, payable at such times, as may be prescribed shall be charged by the Department in respect of -

- (a) applications for permits; and
- (b) the issue of permits.

(2) The Department may decline to proceed with -

- (a) any application for a permit, or
- (b) the issue of any permit,

until any fee in respect of the application or issue (as the case may be) is duly paid.

(3) If, in the case of any application for a permit, any fee in respect of the application or the issue of the permit is not duly paid by the prescribed time -

- (a) the application shall be treated as withdrawn at that time, and
- (b) any decision made or direction given on the application, and any permit issued or variation effected in pursuance of such a direction, ceases to have effect or terminates at that time.

(4) The Department may, if it considers there to be exceptional circumstances that justify its doing so in any case where subsection (3) has applied, direct that as from the time mentioned in that subsection its effect in that case be disregarded.

(5) Where such a direction is given in respect of a permit, the Department may vary any such condition as it applies in relation to events occurring before the direction comes into force.

(6) Regulations under this section may provide for fees to be remitted or refunded (in whole or part) in prescribed cases.

#### **Permits not to be transferable**

14. -(1) Subject to any regulations under section 15, a permit is neither transferable nor assignable.

(2) Regulations may make provision enabling the Department, where the holder of a permit has died or become a patient within the meaning of Article 2(2) of the Mental Health (Northern Ireland) Order 1986 (NI 4), to direct that the permit be treated -

- (a) as not having terminated at the time when the permit-holder died or became a patient but as having been suspended (that is, as having remained in force but subject to the limitation that no services were authorised to be provided under it) from that time until the time when the direction comes into force; and
- (b) as having effect from the time when the direction comes into force for a specified period and as being held during that period (for such purposes and to such extent as may be specified) not by the person to whom it was issued but by such other person carrying on that person's business, or part of that person's business, as may be specified.

(3) Regulations may make provision enabling the Department in prescribed circumstances to direct that any permit is to be treated (for such purposes, for such period and to such extent as may be specified) as held not by the person to whom it was issued but by such other person carrying on that person's business, or part of that person's business, as may be specified.

(4) Regulations may make provision enabling the Department to direct, for the purpose of giving effect to or supplementing a direction given by it by virtue of subsection (2) or (3), that this Act is to apply with specified modifications in relation to the person who is to be treated under the direction as the holder of a permit.

(5) In this section "specified", in relation to a direction, means specified -

- (a) in the regulations under which the direction was given; or
- (b) in the direction in accordance with those regulations.

### **Holding companies and subsidiaries**

15. Regulations may make provision for a service agreement made with, or a service permit held by, any company or other body corporate to apply also to the provision of services by any of its subsidiaries.

### **Forgery, false statements, etc.**

#### **Forgery, etc.**

16. -(1) A person who, with intent to deceive -

- (a) forges, alters or uses a permit;
- (b) lends to, or allows to be used by, any other person a permit; or
- (c) makes or has in his or her possession any document so closely resembling a permit as to be calculated to deceive,

shall be guilty of an offence.

(2) A person guilty of an offence under subsection (1) shall be liable -

- (a) on summary conviction, to a fine not exceeding the statutory maximum;
- (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.

(3) In subsection (1) “forges” means makes a false document in order that it may be used as genuine.

#### **False statements**

17. -(1) A person who knowingly or recklessly makes, or causes to be made a statement or furnishes information which is false or misleading in any material particular for the purpose of -

- (a) obtaining the issue of a permit;
- (b) obtaining the variation of a permit;
- (c) preventing the issue or variation of a permit;
- (d) procuring or preventing the imposition of a condition in relation to a permit,

shall be guilty of an offence.

(2) A person guilty of an offence under subsection (1) shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.

## **PART 2**

### **BUSES, TAXIS AND TRAINS**

#### **Bus operator’s licences**

##### **Road service licence renamed**

18. -(1) In section 4(1) of the 1967 Act (grant of road service licences), for the words ““road service licence”) to provide such a service as may be specified therein” there shall be substituted the words ““bus operator’s licence”)”.

(2) In section 81(1) of the 1967 Act (interpretation) -

- (a) after the definition of “the Authority” there shall be inserted the following definition -  
““bus operator’s licence” has the meaning assigned to it by section 4(1);”;
- (b) the definition of “road service licence” shall cease to have effect.

##### **Particulars to be provided**

19. In section 5(1) of the 1967 Act (particulars to be provided by applicants), paragraphs (b) and (c) shall cease to have effect.

##### **Functions as to grant of licences**

20. In section 6 of the 1967 Act (functions as to grant of licences), the following provisions (which relate to services to be provided under the licence) shall cease to have effect -

- (a) in subsection (1) -



(i) the words “have regard to the interests of persons likely to use the service to be provided under the licence and those of persons holding other road service licences, and” and the word “shall” in the second place where it occurs;

(ii) paragraphs (a), (b), (h) and (i);

(b) subsections (2) and (3) (role of General Consumer Council and representations by others).

### **Taxis**

#### **Amendments of the Taxis Act (Northern Ireland) 2008**

21. -(1) The Taxis Act (Northern Ireland) 2008 (c. 4) shall be amended as follows.

(2) In section 5 (hiring of taxis at separate fares - general), in subsection (1) for paragraph (c) (operator authorised under operator’s licence) there shall be substituted the following paragraph -

“(c) a service agreement or service permit under the Transport Act (Northern Ireland) 2010 so provides.”.

(3) In section 8 (operator’s licence authorising separate fares) -

(a) paragraph (a) shall cease to have effect;

(b) in paragraph (b), for the words “that taxi service” there shall be substituted the words “a taxi service for or in respect of the carriage of passengers at separate fares”;

(c) in the heading for the word “authorising” there shall be substituted the words “conditions relating to”.

(4) The following provisions shall cease to have effect -

(a) section 9 (duty to give information for the purposes of section 10);

(b) section 10 (functions of the Department of the Environment in relation to licence authorising separate fares);

(c) section 11 (appeals in relation to operator’s licence authorising separate fares);

(d) section 54(3) (licence authorising separate fares deemed for purposes of section 14 of Finance Act (Northern Ireland) 1966 to be road service licence under Part 2 of 1967 Act).

### **Railway services**

#### **Provision of railway services**

22. In section 55 of the 1967 Act (provision of railway services), in subsection (1) (duty of railway undertaking), after the words “in Northern Ireland” there shall be inserted the words “in accordance with any service agreement under the Transport Act (Northern Ireland) 2010”.

### **PART 3**

### **CONSUMER COUNCIL**

#### **Forward work programme**

23. -(1) The Consumer Council shall, before each financial year, publish a document (the “forward work programme”) containing a general description of the projects which it plans to undertake during the year in the exercise of its transport functions (other than projects comprising routine activities in the exercise of those functions).

(2) That description shall include the objectives of each project.

(3) The forward work programme for any year shall also include an estimate of the overall expenditure which the Consumer Council expects to incur during the year in the exercise of its transport functions.

(4) Before publishing the forward work programme for any year, the Consumer Council shall give notice -

(a) containing a draft of the forward work programme; and

(b) specifying the time within which representations or objections to the proposals contained in it may be made,

and shall consider any representations or objections which are duly made and not withdrawn.

(5) The notice under subsection (4) shall be published by the Consumer Council in such manner as it considers appropriate for the purpose of bringing the matters contained in it to the attention of persons likely to be affected by them.

(6) The Consumer Council shall send a copy of any notice given by it under subsection (4) to the Department.

(7) In this section and section 24 "transport functions" means functions under paragraph (1) of Article 5 of the General Consumer Council (Northern Ireland) Order 1984 (NI 12) so far as they relate to passenger transport.

#### **Co-operation between the Department and the Consumer Council**

24. -(1) The Department and the Consumer Council (in respect of its transport functions) shall make arrangements with a view to securing -

- (a) co-operation and the exchange of information between them; and
- (b) consistent treatment of matters which affect both of them.

(2) As soon as practicable after agreement is reached on those arrangements, the Department and the Consumer Council shall prepare a memorandum setting them out.

(3) Arrangements under this section shall be kept under review by the Department and the Consumer Council.

(4) As soon as practicable after agreement is reached on any changes to those arrangements, the Department and the Consumer Council shall revise their memorandum.

(5) The Department shall lay a copy of any memorandum prepared or revised under this section before the Assembly.

### **PART 4**

#### **ENFORCEMENT**

##### **Powers of entry**

25. -(1) The powers conferred on an authorised person by this section are exercisable for the purpose of ascertaining whether any provisions of, or made under, this Act are being complied with.

(2) An authorised person (A) shall have the power to enter and inspect any vehicle used for passenger transport; and for that purpose A may stop and detain the vehicle during such time as is required for the inspection.

(3) Subject to subsection (4), an authorised person (A) shall at any time which is reasonable having regard to the circumstances have the power to enter and inspect any premises -

- (a) in or on which A has reason to believe that a vehicle used for passenger transport is kept;
- (b) which A has reason to believe are used or intended to be used in connection with passenger transport.

(4) An authorised person may not under subsection (3) enter premises which are occupied as a private dwelling unless under the authority of a warrant issued under subsection (5)(c).

(5) Where a lay magistrate is satisfied by complaint on oath -

- (a) that an authorised person has been refused admission to any premises which the authorised person has a right to enter under subsection (3), or that such a refusal is apprehended, and that notice of the intention to apply for the warrant has been given to the occupier;
- (b) that an application for admission to the premises, or the giving of such a notice, would defeat the object of the entry, or that the premises are unoccupied or that the owner is temporarily absent; or
- (c) that admission to the premises is reasonably required for the purposes specified in the complaint and that an authorised person would, apart from subsection (4), be entitled for that purpose to exercise in respect of the premises a power of entry under subsection (3),

the lay magistrate may issue a warrant authorising the authorised person to enter the premises.

(6) An authorised person (A) entering any premises under this section may be accompanied by such other persons as appear to A to be necessary.

(7) A warrant issued under subsection (5) shall continue in force until the purpose for which entry is required has been satisfied.

(8) Where an authorised person (A) exercises a power of entry on any premises by virtue of this section, A shall ensure that the premises are left no less secure by reason of the entry, and the Department shall make good or pay compensation for any damage to property caused by A in entering the premises, in carrying out any inspection or in making the premises secure.

(9) Any question of disputed compensation shall be referred to and determined by the Lands Tribunal.

(10) Where an authorised person (A) exercises a power of entry under this section, A may seize and remove anything found on the vehicle or premises which A has reasonable cause to believe may be required as evidence in any proceedings for an offence under this Act.

(11) For the purposes of subsection (10) the power to seize includes power to detach from a vehicle.

#### **Power to seize documents, etc.**

26. -(1) If an authorised person (A) has reason to believe that -

- (a) a document or article carried on, or by the driver of, a vehicle, or
- (b) a document produced in pursuance of this Act,

is a document or article in relation to which an offence has been committed under section 16 or 17, A may seize that document or article.

(2) Where -

- (a) a document or article is seized under subsection (1),
- (b) no person has, within 6 months of the date on which the document or article was seized, been charged with an offence in relation to it under section 16 or 17, and
- (c) the document or article is still detained,

then any of the persons mentioned in subsection (3) may make an application to a court of summary jurisdiction.

(3) The persons who may make an application under subsection (2) are -

- (a) an authorised person;
- (b) the driver or owner of the vehicle; and
- (c) the person from whom the document or article was seized.

(4) On an application under subsection (2), the court of summary jurisdiction shall make such order respecting the disposal of the document or article, and award such costs, as the justice of the case may require.

(5) For the purposes of subsection (1), the power to seize includes a power to detach from a vehicle.

#### **Obtaining of information, etc. by authorised persons**

27. -(1) Where an authorised person (A) has reasonable cause to believe that a vehicle is used for passenger transport -

- (a) the owner or driver of the vehicle,
- (b) any person who has made, is making or intends to make, use of that vehicle for passenger transport, or
- (c) any servant or agent of any person of the kind referred to in paragraphs (a) or (b),

shall furnish to A all such information, and produce for inspection all such documents, as A may reasonably require from that person for the purposes set out in subsection (2).

(2) The purposes referred to in subsection (1) are -

- (a) obtaining the name and address of the owner of the vehicle or of the person whose servant or agent the driver is, and
- (b) ascertaining, in relation to any passengers who have been, or are being, or are to be, carried on the vehicle for reward particulars of -
  - (i) the number of passengers;

(ii) the places from which and to which the passengers have been, are being, or are to be, carried;

(iii) the reward for the carriage of passengers.

(3) The owner or occupier of any premises entered by an authorised person (A) under section 25, or any servant or agent of any such person, or any person found on any such premises, shall give to A such information as it is in the person's power to give as to -

(a) the name and address of the owner of any vehicle used for passenger transport which is kept in or on those premises or of the person whose servant or agent the driver of any such vehicle is;

(b) the matters referred to in subsection (2)(b)(i), (ii) and (iii), in relation to any passengers who have been, are being, or are to be, carried on any such vehicle kept in or on those premises;

(c) any use of those premises in connection with passenger transport.

(4) An authorised person (A) may take copies of any documents -

(a) produced under this section; or

(b) relating to passenger transport, being documents which are found by the authorised person or constable on any vehicle or premises entered under section 25;

and for that purpose A may detain any document or vehicle for such time as is required for such copying.

#### **Obstruction of authorised persons**

28. Any person who -

(a) wilfully obstructs an authorised person acting in the exercise of functions under this Act,

(b) without reasonable cause fails to give an authorised person (A) any information, or to produce any documents, or to allow A to copy any documents, being information or documents which A may reasonably require of that person for the purpose of the exercise of those functions,

(c) prevents, or attempts to prevent, any other person from giving any such information to any authorised person, or

(d) in giving any such information to any authorised person makes any statement which that person knows to be false in a material particular,

shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale or to imprisonment for a term not exceeding 6 months, or to both.

#### **Exercise of enforcement powers: authorised persons and constables**

29. -(1) The powers conferred on an authorised person by this Act are exercisable on production by that person, if so required, of that person's authority.

(2) A constable may exercise the functions of an authorised person under this Act, but it shall not be necessary for a constable in uniform to produce any authority pursuant to subsection (1).

(3) Section 28 applies in relation to a constable as it applies in relation to an authorised person.

#### **Evidence by certificate**

30. -(1) In any proceedings for an offence under this Act a certificate such as is mentioned in subsection (2) shall be evidence of the facts stated in it.

(2) The certificate referred to in subsection (1) is a certificate issued by the Department which states -

(a) that, on any date, a person was or was not the holder of a permit;

(b) that, by virtue of a direction given by the Department under regulations made under section 14(2)(b) or (3), a person is to be treated as having been the holder of a permit on any date;

(c) the date of the coming into force of a permit;

(d) the date on which a permit ceased to be in force;

(e) the terms and conditions of a permit;

- (f) that a person is by virtue of an order of the Department disqualified from holding or obtaining a service permit, either indefinitely or for a specified period;
- (g) that a direction, having effect indefinitely or for a specified period, has been given by the Department under section 11(3) in relation to any person;
- (h) that a service permit was on any date or during any specified period suspended by virtue of a direction given by the Department under section 10(1); or
- (i) that, by virtue of a direction given by the Department under regulations made under section 14(2)(a), a service permit is to be treated as having been suspended on any date or during any specified period.

(3) Any such certificate which purports to be issued by the Department shall be taken to be so issued unless the contrary is proved.

### **Prosecutions**

31. -(1) Proceedings for an offence under any of the provisions of this Act shall not be instituted except by the Department or a constable.

(2) Article 10 of the Road Traffic Offenders (Northern Ireland) Order 1996 (NI 10) (time for bringing summary proceedings for certain offences) shall apply to an offence under section 5(2) or 17(1).

## **PART 5**

### **GRANTS**

#### **Approved capital expenditure**

32. -(1) The Department may pay grants towards approved capital expenditure incurred or to be incurred in -

- (a) providing vehicles;
- (b) providing, improving or developing facilities for passenger transport.

(2) In this section -

“approved” means approved by the Department;

“capital expenditure” means expenditure appearing to the Department to be of a capital nature;

“expenditure”, in relation to the provision of a vehicle by a person or body, includes, where the vehicle is provided by being manufactured or wholly or partly constructed by that person or body, such sum as appears to the Department to be properly attributable to its provision by that person or body in that manner.

#### **Services for benefit of certain sections of the public**

33. -(1) The Department may pay grants towards expenditure incurred or to be incurred in -

- (a) the provision of services appearing to the Department to be wholly or mainly for the benefit of members of the public who have a disability or are elderly or live in rural areas;
- (b) the provision, maintenance or improvement of -
  - (i) any vehicle, equipment or other facilities provided wholly or mainly for the purpose of facilitating travel by members of the public who have a disability; or
  - (ii) any equipment or facilities specially designed or adapted for that purpose which are incorporated in any vehicle, equipment or other facilities not provided wholly or mainly for that purpose.

(2) In subsection (1) “services” means services provided under a service agreement or the use of a vehicle under a permit granted under section 10B of the 1967 Act.

#### **Services in certain areas**

34. The Department may pay grants for the purpose of securing the provision of passenger transport in any area, to any person providing, or proposing to provide, it in that area under a service agreement, if the Department is satisfied -

- (a) that it is necessary to meet the reasonable needs of persons in that area;

(b) that what is being provided or proposed to be provided will be carried on efficiently and economically; and

(c) that the person providing or proposing to provide it will, if grants are not made under this section, be unable or unwilling to carry on, or provide, it in an efficient and economic manner.

**Advice and information, etc.**

35. The Department may pay grants to any person towards expenditure incurred or to be incurred in the provision of advice, information, support or training relating to passenger transport.

**Supplementary**

36. If the Department considers it appropriate in connection with any provision of, or the purposes of, this Act, but has not power to do so under any other provision of this Part, the Department may pay such grants to such persons as it considers appropriate.

**Terms, conditions and approval of Department of Finance and Personnel**

37. -(1) Grants made under this Part shall be subject to such terms and conditions as the Department may, with the approval of the Department of Finance and Personnel, determine.

(2) Grants shall not be made under this Part without the approval of the Department of Finance and Personnel.

(3) Subsection (2) has effect subject to any direction given to the Department by the Department of Finance and Personnel.

**PART 6**

**MISCELLANEOUS AND SUPPLEMENTARY**

**Acquisition of land by agreement or compulsorily**

38. -(1) The Department may, for any purpose in connection with its functions under this Act, acquire by agreement or compulsorily any land.

(2) Article 113 of the Roads (Northern Ireland) Order 1993 (NI 15) (vesting orders) shall apply for the purposes of subsection (1) as it applies for the purposes of Article 110 of that Order.

**Disposal of land acquired under section 38**

39. -(1) The Department may dispose of any land acquired under section 38 (acquisition of land by agreement or compulsorily).

(2) Section 5 of the Stormont Regulation and Government Property Act (Northern Ireland) 1933 (c. 6) shall not affect the disposal of land acquired under section 38.

**Powers to obtain information and enter on land**

40. -(1) Article 118 of the Roads (Northern Ireland) Order 1993 (NI 15) (power to obtain information as to ownership of land) shall apply in relation to this Act as it applies in relation to that Order.

(2) Articles 119 and 120 of that Order (powers to enter on land) shall apply for the purposes of this Act but as if references in Article 119 to that Order were references to this Act.

**Appointment of directors of N.I. Transport Holding Company**

41. In section 47 of the 1967 Act (establishment of the Northern Ireland Transport Holding Company), after subsection (3) there shall be inserted the following subsection -

“(3A) Section 18(2) of the Interpretation Act (Northern Ireland) 1954 (c. 33) shall apply to appointments under this section.”.

**Conduct of persons at bus stations**

42. -(1) The Department may make regulations -

(a) for the purpose of regulating the conduct of persons at or near bus stations; and

(b) conferring powers on authorised persons for the purpose of the enforcement of regulations made under this section.

(2) In this section -

“authorised persons”, in relation to a bus station, means any persons authorised in writing by a designated operator for the purpose of regulations made under this section or any constables;

“bus station” means any place used by a designated operator in connection with the provision of services under a service agreement or a service permit to the extent that the public has access to it, excluding any area to which byelaws under section 57 of the 1967 Act (power of railway undertaking to make byelaws) apply;

“designated” means designated by the Department in relation to any premises;

“operator” means a person providing services under a service agreement or a service permit.

(3) Regulations under this section may provide that a person who contravenes a specified provision of regulations under this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

### **Shared transport facilities**

43. -(1) In this section -

“direction” means a direction under regulations;

“P” means a person with whom the Department has entered into a service agreement;

“regulations” means regulations under this section;

“specified” means specified in a direction.

(2) Regulations may make provision enabling the Department to direct that any place used by P for the provision of services under a service agreement shall be made available in accordance with the direction for the provision of specified services by another person.

(3) Regulations may make provision as to matters which may or must be dealt with in a direction.

### **Application of Act to partnerships**

44. Regulations may provide for this Act to apply in relation to partnerships with such modifications as may be prescribed.

### **Supplementary provision**

45. -(1) The Department may by order make such incidental, supplementary, consequential, transitory, transitional or saving provisions as it considers necessary or expedient for the purposes of, in consequence of or for giving full effect to this Act or any provision of it, or in connection with the coming into operation of any provision of this Act.

(2) An order under this section may amend, repeal or modify any statutory provision (including this Act).

(3) The power conferred by this section is not restricted by any other provision of this Act.

(4) An order shall not be made under this section unless a draft of the order has been laid before, and approved by a resolution of, the Assembly.

### **Regulations - general**

46. -(1) The Department may make regulations for any purpose for which regulations may be made under this Act, and for prescribing anything which may be prescribed under this Act, and generally for carrying this Act into effect.

(2) In particular, but without prejudice to the generality of subsection (1), the Department may make regulations with respect to the following matters -

(a) the procedure on applications for, and the determination of questions in connection with, the issuing and variation of service permits;

(b) the issue of service permits and the issue on payment of the prescribed fee of copies of service permits in the case of permits lost or defaced;

(c) the notification to the Department of routes on which a service under a service permit has ceased to be provided;

(d) the means by which vehicles may be identified, whether by plates, marks or otherwise, as providing a service under a service agreement or a service permit;

(e) the custody, production, return and cancellation of service permits and of documents, plates and any other means of identification prescribed under paragraph (d);

(f) ticketing machines and systems.

(3) Regulations under this Act shall be subject to negative resolution.

(4) Any person who contravenes a provision of regulations under this section, a contravention of which is declared by the regulations to be an offence, shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(5) Regulations under this Act may contain such incidental, supplementary, consequential, transitory or saving provisions as the Department considers necessary or expedient.

### **Interpretation**

47. -(1) In this Act -

“the 1967 Act” means the Transport Act (Northern Ireland) 1967 (c. 37);

“the 1995 Order” means the Road Traffic (Northern Ireland) Order 1995 (NI 18);

“authorised person”, except in section 42, means any person authorised in writing by the Department for the purposes of this Act;

“company” and “subsidiary” have the meanings given in section 1159 of the Companies Act 2006 (c. 46);

“the Consumer Council” means the General Consumer Council for Northern Ireland;

“the Department” means the Department for Regional Development;

“modification” includes addition, omission and alteration;

“owner”, in relation to any land in Northern Ireland, means a person, other than a mortgagee not in possession, who, whether in that person’s own right or as trustee for any other person, is entitled to receive the rack rent of the land or, where the land is not let at a rack rent, would be so entitled if it were so let;

“passenger transport”, except in the expression “public passenger transport services”, means -

(a) public passenger transport services excluding, except in sections 23(7) and 25(2), rail services; and

(b) the use of a vehicle under a permit under section 10B of the 1967 Act;

“prescribed” means prescribed by regulations;

“public passenger transport services” has the meaning given in section 1(4);

“public service contracts” has the same meaning as in Article 2 of Regulation (EC) No. 1370/2007 as amended from time to time;

“Regulation (EC) No. 1370/2007” means Regulation (EC) No. 1370/2007 of the European Parliament and of the Council of 23rd October 2007 on public passenger transport services by rail and by road and repealing Council Regulations (EEC) Nos. 1191/69 and 1107/70;

“regulations” means regulations made by the Department;

“reward” has the meaning given in section 46(a) of the 1967 Act;

“road” has the same meaning as in Article 2(2) of the 1995 Order;

“service agreement” and “service permit” have the meanings given in section 1(4);

“statutory provision” has the same meaning as in section 1(f) of the Interpretation Act (Northern Ireland) 1954 (c. 33);

“Upper Tribunal” means the Upper Tribunal constituted under section 3 of the Tribunals, Courts and Enforcement Act 2007 (c. 15).

(2) For the purposes of this Act, the driver of a vehicle, if it belongs to the driver or is in the driver’s possession under an agreement for hire, hire-purchase or loan, and in any other case the person whose servant or agent the driver is, shall be deemed to be the person using the vehicle.

(3) In its application to this Act, the Interpretation Act (Northern Ireland) 1954 (c. 33) has effect as if -

(a) in section 20 (offences by corporations), subsection (3) were omitted; and

(b) in section 24(1) (notice by post), the word “registering” were omitted.



### **Amendments and repeals**

48. -(1) Schedule 1 (which contains amendments) shall have effect.

(2) The statutory provisions set out in the first column of Schedule 2 are hereby repealed to the extent specified in the second column of that Schedule.

(3) Part 5 of the Belfast Corporation Act (Northern Ireland) 1924 (c. iv) (omnibuses) is hereby repealed.

(4) The Department may by order subject to negative resolution -

(a) repeal any local or private Act in so far as it appears to the Department to be inconsistent with any provision of this Act;

(b) amend any such Act so as to render it consistent with the provisions of this Act.

### **Commencement**

49. -(1) The following provisions of this Act shall come into operation on Royal Assent -

(a) sections 35, 37, 41, 45 and 47;

(b) this section; and

(c) section 50.

(2) The other provisions of this Act come into operation on such day or days as the Department may by order appoint.

(3) An order under subsection (2) may contain -

(a) such transitional provisions and savings;

(b) such supplementary, incidental or consequential provisions (including any provision amending this Act),

as the Department considers necessary or expedient in connection with the coming into operation of any of the provisions of this Act.

### **Short title**

50. This Act may be cited as the Transport Act (Northern Ireland) 2010.

## **Appendix 3 – February 2010 response**

### **Council Response Reform of Public Transport: February 2010**

#### **General comments**

The Council would not support the proposed preferred reform option for the creation of a new agency with responsibility for public transport provision within the Department for Regional Development. The Council have concerns in relation to the local accountability of the proposed public transport agency and the transparency of decision making within the new agency.

A previous report in August 2006 considered the option of transferring responsibility for public transport to new local councils proposed under the Review of Public Administration. This option was not pursued once the decision to retain roads functions within the Department for Regional Development was made. The Council would request clarification on the consultation arrangements for the Outline Business Case on public transport reform, the involvement of local councils in this process and the basis for the decision to move away from direct local council involvement in public transport provision.

Further consideration should be given to the role of local councils in future public transport provision with greater clarity in the reform consultation document in respect of the relationship between the proposed oversight bodies and the proposed post RPA local authorities. With the proposed transfer of local land use planning to local councils under the Review of Public Administration, a major Council priority would be to ensure the integration between land use planning and transportation. The proposed local councils will have community planning and well being functions that require a coordinated approach to local service delivery across agencies. It should be noted that the Council in the exercise of these functions would like to support local people and communities by ensuring an approach that integrates transportation to enhance connectivity for local neighbourhoods thereby making them safer, healthier and more inclusive.

#### **Questions on Detailed Policy Proposals**

##### **Question 1**

**Do you agree that a system of performance-based contracts should be introduced for the public transport network, with a system of innovative service permits for other non-contracted services?**

The Council would support the introduction of performance based contracts and innovative service contracts as a lever to improve efficiency and quality of service of public transport. The Department must put measures in place to ensure that the proposed operator is meeting or exceeding certain clearly defined minimum performance indicators. The performance based contracts must include commitments to reliability, punctuality and customer service.

The Council would suggest that social benefits are incorporated in the performance based indicators which will balance the purely commercial benefits approach and address local circumstances. The Council would request a clear role for local authorities in developing performance based contracts to ensure they are transparent, locally accountable and address real need.

The proposal states that innovative service contracts may be applied for by private operators where gaps in services occur. The Council would support additional services in Belfast including cross city bus routes and night time services. The Council would request measures

to encourage operators to introduce these services where gaps in provision have been identified but may not initially be commercially attractive for operators. The Department should ensure that public transport system enhances connectivity for local neighbourhoods by making them safer, healthier and more inclusive.

### **Question 2**

**Do you agree that the public transport system should continue to be regulated?**

The Council would support the continued regulation of public transport, however, levers to improve efficiency and quality must be put in place. There must be a clear role for local councils in the regulation of this important service sector to ensure transparency and local accountability. The proposal to allow Translink to provide the majority of services must contain measures to ensure continual improvement to the service and increased efficiency.

### **Question 3**

**Do you agree that the fares levels and fare structure for services on the public transport network should be regulated in future?**

The Council agrees with regulation of public transport fares. It is essential that fares are regulated in a manner which encourages use of public transport and contributes to the modal shift from the private car to public transport through a fare system that is attractive and economic to the user.

Public transport plays an important role in the overall economy in terms of access to jobs and services; and it also supports the sustainable development of the metropolitan area.

### **Question 4**

**Do you agree that the departmental agency should be responsible for specifying public transport service requirements, awarding contracts and monitoring and reporting on operator performance?**

The Council would not support a new departmental agency to deliver public transport provision and have concerns in relation to the local accountability of the proposed public transport agency and the transparency of decision making within the new agency. The Council would request clarification of the rationale for the decision to move away from any local council involvement in public transport provision in the context of the Review of Public Administration and the responsibility for community planning and well being.

Further consideration should be given to the proposed arrangements for local council involvement in future public transport provision and the Council would recommend a role for local councils in the specification of public service requirements. The Council would like to highlight a number of gaps in the current service such as cross city routes and night time services and would also request clarification on the integration of current services with the proposed rapid transit system in Belfast.

In recognition of the proposed new responsibilities of community planning and well being the Council would seek to ensure equality of access to public transport across the city in particular in areas where new infrastructure is not proposed. In this regard it should be noted that public transport enhancement through rapid transit does not include proposals for the north and south of the city.

There is a lack of clarity in the consultation document on the role of councils in the future development of public transport. This is highlighted by a lack of provision for council involvement in the proposed new agency within DRD.

### **Question 5**

**Do you agree that Translink should continue to be the lead supplier of public transport services?**

The Council would support the proposal to allow Translink to provide the majority of services but measures should be put in place to ensure efficiency and continued improvement of service.

### **Question 6**

**What are your views on:**

- **the proposed offences and fine levels to support the contracting/permit regime;**
- **the continuing offences and fine levels for operator licensing, railway byelaws and conduct on buses; and**
- **the proposed powers to regulate passenger conduct in bus premises?**

The Council would support the concept of penalties and monitoring of conduct on public transport services. A general level of conduct should be agreed and the level should be matched across all service provision. The Council has concerns in respect of the decision that enforcement of the regulations on the operator will remain the responsibility of the Department of Environment. It may be more appropriate for one department to be responsible for monitoring and enforcement with an appropriate separation from commissioning of services within that department, this would provide clearer accountability.

### **Question 7**

**What are your views on the best approach to develop local transport plans and who needs to be involved?**

The Council welcomes the approach for the creation of local transport plans however the document identifies the involvement of local councils as important but does not offer any further detail on how this involvement will occur. Clarification on this issue will be needed, and on how this new power will integrate with the future responsibilities of local councils post-RPA for example local development planning and development management. Local councils should have the opportunity to directly influence the transport plans and a mechanism for articulating the transport needs for their area.

With the proposed transfer of local planning functions to councils, the Council would seek to promote the sustainable development for the city and would like to ensure a consistent and integrated approach to land use and transportation planning.

It is proposed that local councils will have a community planning function and in line with this the Council would like to support local people and communities by ensuring a community plan approach that integrates transportation to enhance connectivity for local neighbourhoods by making them safer, healthier and more inclusive.

The Environment (Northern Ireland) Order 2002 places a statutory responsibility on local councils to manage air quality within their districts in accordance with the provisions of the Air Quality Strategy for England, Scotland, Wales and Northern Ireland. In 2004, Belfast City Council declared four air quality management areas across the city principally associated with road transport and subsequently published an air quality action plan in collaboration with a range of relevant authorities including the Department for Regional Development and Translink. Planning Policy Statement (PPS) 1 establishes air quality as a material consideration within the planning process. Accordingly, the Council recommends that in developing new proposals the Department for Regional Development should engage with

local authorities at the earliest instance in order to take account of the linkages between planning and development control, air quality and transportation.

The Council would also request that the local transport plans consider the following issues in relation to connecting communities:

- There is a clear desire to build a vision of a shared and better future between local communities in the city as we enter the next phase, moving from conflict management to city transformation. Shared spaces provide attractive destinations of common purpose and use and, as drivers for community cohesion, are therefore key to overcoming the problems of segregation in Belfast. Critical to the delivery and sustainability of shared spaces is well-connected, affordable and safe transport links.
- Re-connecting the city of Belfast is critical to its success as a cohesive and competitive city. It is essential that we maximise mobility across the city, so that residents and visitors can easily, safely and affordably access jobs, services and leisure opportunities wherever they are located.
- In 2008, the Council commissioned a think-piece of research entitled 'Improving Connectivity and Mobility in Belfast' exploring specifically the contribution that improved connectivity could make to the conflict transformation agenda in Belfast. It highlighted that physical and psychological barriers at the interfaces between the segregated communities, makes travel around parts of the city difficult and resulting in people avoiding certain areas perceived to be unsafe, freezing current land use patterns and making the creation of shared spaces more difficult. Safe, affordable and shared public transport is critical to the continued transformation of the city.

The report highlighted a number of disadvantages, particularly from a social policy perspective including: bus routes perceived to be following the sectarian segmentation of the city and exacerbating segregation; routes easily identifiable with specific communities; a lack of orbital routes, discouraging cross community contacts; and, the need to pay twice when interchanging in the city centre.

The think-piece highlighted that mental mapping studies, looking at how some communities cognitively perceive their environment, found them to have very limited spatial maps, greatly limiting their access to employment and educational opportunities. It was widely believed by most stakeholders consulted as part of the think-piece research that large parts of the public transport network – by responding to commercial pressures to meet current patterns of demand – exacerbate segregation. Rather than cutting across the communities and linking different parts of the city, the network tends to reproduce and reinforce patterns of segregation, in line with current perceptions of territoriality.

The report proposed that, through modifications to the existing services, public transport can play a major role in helping to change perceptions, enlarge travel horizons, and shape new travel and social patterns in Belfast. The report also proposed a concept to promote Belfast as the “city on the move”, with buses as its mobile shared units and information exchange hubs.

The governance of local transport is important as the study suggested that there may be ways in which the public transport could enhance good relations and social inclusion outcomes. The principal concept underlying the recommendations put forward in the document was to start expanding the number and range of the city's shared spaces. It was suggested that this will provide more areas which people can safely travel to and through, thereby expanding their travel horizons and encouraging inter-community and inter-racial tolerance; it will also help to bring wealth into deprived communities. The paper outlined how

the expansion of shared spaces has the potential to be the catalyst for unravelling some of the long standing issues confronting Belfast.

The consideration of local transport should also recognise that labour mobility is critical in reinforcing peace and stability. The study states that effective public transport system is important in promoting Belfast as an attractive global city where its resident talent pool is able to move freely and safely, as well as attracting the best international employers. The links to building an attractive, competitive city are clearly outlined in Richard Florida's work on the three central 'prongs' of technology, talent and tolerance; a city ill at ease with difference will neither attract nor retain talent in a globalised, mobile labour and investment market. Labour mobility in the city is dependent on ease of access and reduction in the perception of risk to personal safety and transport is key to delivering a competitive and cohesive city

#### **Question 8**

**Do you agree that the departmental agency should have statutory powers to designate passenger facilities as "shared facilities" and to specify the access arrangements and charges for the use of the facilities by other public transport operators?**

The Council welcomes proposals to allow private operators to deliver licensed services and use bus and rail facilities, however strict measures to monitor the quality of services and ensure integration should be put in place. This should be linked to greater regulation of private operators on use of halts and road space.

#### **Question 9**

**Do you agree with the proposed future role of the Consumer Council, which would involve the Council in:**

- **advising the Department on the consumer interests in relation to the development of public transport policy and fares;**
- **providing comments on service requirements specifications for public transport contracts and innovative service permit applications;**
- **representing the consumer interest in unresolved complaints about the services provided by the departmental agency and by operators; and**
- **agreeing arrangements for co-operation between the Council and the agency on public transport matters of shared interest.**

The Council welcome the role of the consumer council in advising the Department on consumer needs in the context of a clarified role for local councils in the future provision of public transport.

#### **Question 10**

**Do you agree with the proposals on the future arrangements for the provision of rail services?**

The Council would support the move towards formal contract arrangements with Northern Ireland Railways to ensure the financial and transparency requirements. The Council would request that performance targets are set to ensure continual improvement of services and options to encourage the expansion of the service in the future.

#### **Question 11**

**Do you agree that there is a need for integrated and off-vehicle ticketing across all forms of public transport?**

The Council strongly supports the introduction of an integrated ticketing system that allows travel between the different modes for example bus, rail and proposed rapid transit, also with

private operator services. It is the view of the Council that integrated ticketing and off-vehicle ticketing will enhance public transport and contribute to achieving a modal change from private car to public transport.

The Council does not support a time limit being put on pre-paid ticket

#### **Question 12**

**Do you agree that the Department should become a statutory consultee in land use planning decisions, and should be able to secure developer contributions for public transport?**

Clarification will be needed on the outcome of the planning reform proposal to extend the list of statutory consultee's and the potential role for any new public transport agency in relation to the proposed planning hierarchy will be required.

The Council considers that the proposal for developer contributions has a range of implications and was included in the recent Planning Reform proposals for consideration by a wider range of planning professionals and stakeholders. The Council recognise the need for a role in relation to land use planning however the matter of any developer contribution will be an issue of balance of a range of issues on which the local planning authority will be required to make a decision.

#### **Question 13**

**Do you agree that the Department should formalise and take forward legal arrangements to provide funding to transport advisory-type bodies?**

The Council would support specific legislation arrangements to enable it to continue to fund transport advisory boards. It is essential that public transport is accessible to all sections of the community and opportunities for improvement are investigated.

#### **Question 14**

**Do you believe that service provision and information should be provided in languages other than English by Translink and other operators, where a clear demand is evident?**

The Council would support the proposal to provide information in different language where there is a clear demand to ensure all sections of the community have the option to access public transport.

Please make any further comments here, ensuring that you clearly refer to any relevant questions or responses submitted above.

#### **Additional comments:**

(i) The Council would support additional bus services in Belfast including cross city bus routes and night time bus services. The Council would request measures to encourage operators to introduce these services which may not be commercially viable initially but are essential to connecting local neighbourhoods. The Council would advocate robust measures to prevent bus parking or layover in the city centre and strong regulation for private operators.

(ii) The proposals states that funding for public transport will change from capital funding to revenue funding. The Council would request further details on the proposed level of revenue funding for public transport provision.

(iii) Within Chapter 3 of the consultation document, the Minister has indicated that he wishes to make public transport people's first choice, not last resort, adding that people's willingness to use public transport is often related to the ease with which it enables them to make a journey and the duration of that journey, including time spent waiting, compared to the alternative means of transport, which is normally the private car. He concludes therefore, that it is essential that bus priority and park and ride measures that give preference in the use of road space to public transport continue to be implemented.

The recently revised Belfast City Council Transportation Policy supports this viewpoint by committing the Council to seek to influence the development of transportation policies and proposals which improve connectivity and encourage a modal shift away from the private car to more sustainable forms of travel, such as walking, cycling and public transport.

The Council considers it essential however, that park and ride facilities are located in appropriate locations that maximise the opportunity for modal shift. The draft Belfast Metropolitan Area Plan has proposed planning protection for a range of transportation schemes under Policy Tran 2, including a proposal to locate a park and ride facility at Kennedy Way. Council has already articulated its opposition to the siting of a park and ride at Kennedy during the Belfast Metropolitan Area Plan public enquiry on the basis of its proximity to the city centre and to residential properties and its potential to worsen air quality within an area of existing poor air quality. The park and ride site may also increase ambient noise levels in the vicinity of Kennedy Way.

Accordingly, Council supports the provision of park and ride sites but recommends that they be sited in appropriate locations so as to maximise the opportunity for modal shift whilst minimising adverse environmental and other impacts on the surrounding population and environment.

(iv) Within section 3.7, it is proposed that in order to encourage the greater use of public transport, it is intended to expand further the use of bus lanes and to improve enforcement so that journeys by public transport are quicker for users than by other means of transport.

The Council supports commitments to increase the number of bus lanes and to improve enforcement in order to speed public transport journeys however, it recommends that bus lanes should where possible be of an uninterrupted design. Presently, on arterial routes such as the Malone Road and the Lisburn Road, bus lanes periodically merge with other road users, particularly at road junctions. Moreover, the failure to sequence traffic lights along arterial routes also lengthen public transport journeys unnecessarily.

(v) With regard to the decriminalisation of parking enforcement, the Traffic Management (Northern Ireland) Order 2005 enabled the Roads Service to take over from the police, the enforcement of most parking restrictions including yellow lines, urban clearways, bus lanes, limited waiting parking places and pay and display bays. The Road Service has stated that the objective of the new enforcement regime is to reduce the number of illegally parked vehicles, which will lead to reduced traffic congestion, improved road safety and improved accessibility for all road-users. However, many parking restrictions provide dispensation for loading and unloading of commercial vehicles. It is considered that on arterial routes loading and unloading, particularly during the AM and PM peak travel hours, has the potential to obstruct bus lanes, congest other traffic and significantly lengthen commuter journey times.



