

Net Zero, Energy and Transport Committee

34th Meeting, 2022 (Session 6)

Tuesday, 20 December 2022

SSI cover note for: The Public Service Vehicles (Registration of Local Services) (Provision of Service Information) (Scotland) Regulations 2022 (SSI 2022/358)

Title of Instrument: [The Public Service Vehicles \(Registration of Local Services\) \(Provision of Service Information\) \(Scotland\) Regulations 2022](#)

Type of Instrument: Negative

Laid Date: 1 December 2022

Circulated to Members: 1 December 2022

Meeting Date: 20 December 2022

Minister to attend meeting: No

Motion for annulment lodged: No

Drawn to the Parliament's attention by the Delegated Powers and Law Reform Committee? No

Reporting deadline: 23 January 2023

Recommendation

1. The Committee is invited to consider any issues which it wishes to raise on the instrument.

Background

2. In order to provide local bus services, operators must register with transport partnerships and local authorities. These regulations make alterations to the registration requirements of operators, including to provide information on services should they wish to vary or cancel them.
3. According to the [Policy Note](#) accompanying the instrument, the purpose of the Regulations is to strengthen competition in the bus market. The Scottish Government has not undertaken any impact assessments for the instrument on the grounds that the Regulations “do not seek to change the policy intent of that process”. A BRIA has also not been completed for the Regulations, the Scottish Government states this is because the instrument has no financial implications for itself, local government or businesses.
4. An electronic copy of the Regulations is available at:
<https://www.legislation.gov.uk/ssi/2022/358/contents/made>
5. A copy of the Scottish Government’s Explanatory and Policy Notes are included in **the Annexe**.

Purpose

6. The purpose of the instrument is to make detailed provision in relation to the process contained in sections 6ZA to 6ZC of the [Transport Act 1985](#) (‘the 1985 Act’) relating to bus services. This process enables an affected authority (defined by section 6ZA (6)) to obtain specific service information from an operator when that operator proposes to vary or cancel the registration of a local service. The instrument specifies:
 - The period within which an affected authority may require information from an operator
 - The information that may be required
 - The period within which an operator must provide the information
 - The circumstances in which the power to require information under section 6ZA of the 1985 Act does not apply to a proposed application to vary or cancel a registration
 - The form of the information to be provided by the operator.

Delegated Powers and Law Reform (DPLR) Committee consideration

7. At its [meeting on 13 December 2022](#), the DPLR Committee considered the instrument and determined that it did not need to draw the attention of the Parliament to the instrument on any grounds within its remit.

Procedure for Negative Instruments

8. Negative instruments are instruments that are “subject to annulment” by resolution of the Parliament for a period of 40 days after they are laid. All negative instruments are considered by the Delegated Powers and Law Reform Committee (on various technical grounds) and by the relevant lead committee (on policy grounds). Under Rule 10.4, any member (whether or not a member of the lead committee) may, within the 40-day period, lodge a motion for consideration by the lead committee recommending annulment of the instrument. If the motion is agreed to, the Parliamentary Bureau must then lodge a motion to annul the instrument for consideration by the Parliament.

9. If that is also agreed to, Scottish Ministers must revoke the instrument. Each negative instrument appears on a committee agenda at the first opportunity after the Delegated Powers and Law Reform Committee has reported on it. This means that, if questions are asked or concerns raised, consideration of the instrument can usually be continued to a later meeting to allow correspondence to be entered into or a Minister or officials invited to give evidence. In other cases, the Committee may be content simply to note the instrument and agree to make no recommendation on it.

Clerks

Net Zero, Energy and Transport Committee

Annexe

Scottish Government Explanatory Note

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations prescribe elements of the process contained in sections 6ZA to 6ZC of the Transport Act 1985 (“the 1985 Act”) relating to bus services. Section 6 of the 1985 Act and the Public Service Vehicles (Registration of Local Services) (Scotland) Regulations 2001 (“the 2001 Regulations”) deal with the registration of local services (defined by section 2 of the 1985 Act). Section 6 and the 2001 Regulations also deal with the circumstances in which such a registration can be varied or cancelled. Without this registration, a local service cannot be provided by an operator.

Sections 6ZA to 6ZC of the 1985 Act enable an affected authority (defined by section 6ZA(6) of that Act) to obtain specific service information from an operator who proposes to vary or cancel the registration of a local service and, in limited circumstances, share it with other people who may wish to bid to provide a similar service to the one being withdrawn or varied. Sections 6ZA to 6ZC provide that certain elements of this process may be prescribed in regulations.

Regulation 2 prescribes the period within which an affected authority may require the operator to provide them with prescribed information relating to the local service.

Regulation 3 prescribes the information relating to the local service which an operator may be required to provide to an affected authority.

Regulation 4 prescribes the period within which an operator must provide required information to the affected authority.

Regulation 5 prescribes the circumstances in which section 6ZA of the 1985 Act shall not apply to a proposed application to vary or cancel the registration of a local service.

Regulation 6 prescribes the form of the information to be provided by an operator when they are required to provide information to an affected authority.

Regulation 7 provides that these Regulations apply only in relation to notifications of proposed applications to vary or cancel a registration received by an affected authority on or after the date on which these Regulations come into force.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen.

Scottish Government Policy Note

POLICY NOTE

THE PUBLIC SERVICE VEHICLES (REGISTRATION OF LOCAL SERVICES) (PROVISION OF SERVICE INFORMATION) (SCOTLAND) REGULATIONS 2022

SSI 2022/358

The above instrument was made in exercise of the powers conferred by sections 6ZA (2), 6ZA (5) and 6ZC (1) of the Transport Act 1985 (“the 1985 Act”). This instrument is subject to negative procedure.

Purpose of the instrument

The purpose of the instrument is to make detailed provision in relation to the process contained in sections 6ZA to 6ZC of the 1985 Act relating to bus services. This process enables an affected authority (defined by section 6ZA (6)) to obtain specific service information from an operator when that operator proposes to vary or cancel the registration of a local service. The instrument specifies:

- The period within which an affected authority may require information from an operator
- The information that may be required
- The period within which an operator must provide the information
- The circumstances in which the power to require information under section 6ZA of the 1985 Act does not apply to a proposed application to vary or cancel a registration
- The form of the information to be provided by the operator.

Background

Section 6 of the 1985 Act and the Public Service Vehicles (Registration of Local Services) (Scotland) Regulations 2001 (“the 2001 Regulations”) deal with the registration of local services (defined by section 2 of the 1985 Act). The section and the 2001 Regulations also deal with the circumstances in which such a registration can be varied or cancelled. Without a registration, an operator cannot provide a local service.

When an operator proposes to apply to the Office of the Traffic Commissioner for a new registration, or to vary or cancel a registration, they must first notify the relevant authorities under regulation 4(1) of the 2001 Regulations. Section 39 of the Transport (Scotland) Act 2019 (“the 2019 Act”) inserted sections 6ZA to 6ZC into the 1985 Act. These provisions enable any affected authority to obtain specific service information from an operator who proposes to vary or cancel the registration of a local service and, in limited circumstances, share it with other people who may wish to bid to provide a similar service to the one being withdrawn or varied. Sections 6ZA to 6ZC also provide that certain elements of this process may be prescribed in regulations. This instrument prescribes certain elements of the process.

Policy Objectives

The new powers to obtain and share information contained in sections 6ZA to 6ZC of the 1985 Act are designed to facilitate more effective competition in the bus market and assist affected authorities to ensure the best use of public funds. They also support the Scottish Government's 2021 updated Climate Change Plan, delivering a just transition to net-zero by 2045.

Prescribed period for an affected authority to require information

Regulation 2 prescribes the period within which an affected authority may require the operator to provide them with prescribed information relating to the local service. The prescribed period is seven days beginning with the day after the day on which the authority receives notification of the proposed application to vary or cancel the registration under regulation 4(1) of the 2001 Regulations. The seven-day period to require information and the seven-day period for an operator to provide the information (discussed below) is linked to the registration process under the 2001 Regulations, and particularly the 28-day waiting period under regulation 4(1A).

Once an operator has submitted notification of a proposed application to a relevant authority, regulation 4(1A) of the 2001 Regulations provides they may not submit the application to the Office of the Traffic Commissioner until either they have received a confirmation notice from the relevant authority or a period of 28 days after the notification has expired (whichever is the earlier). The policy intent is authorities may require information and operators must provide any information within a maximum total period of 14 days, which allows time before the 28-day waiting period expires for parties to engage in discussions with a view to the operator possibly deciding not to submit the application to the Office of the Traffic Commissioner.

Prescribed information relating to the local service

Regulation 3 prescribes the information relating to the local service which an affected authority may require from an operator. The prescribed information relates to the number of passengers using the service, the journeys made by those passengers and the fares paid by them, and the revenue obtained by operating the service.

Prescribed period for an operator to provide the required information

Regulation 4 prescribes the period within which an operator must provide required information to the affected authority. The prescribed period is seven days beginning with the day after the day on which the operator receives the request from the affected authority under section 6ZA (2) of the 1985 Act.

Excluded applications

Regulation 5 prescribes the circumstances in which section 6ZA of the 1985 Act does not apply to a proposed application to vary or cancel the registration of a local service. These excluded applications include applications to vary a service by providing additional stops and applications to vary a service by increasing its frequency. The policy intent is that these applications do not require to be subject to

the information-sharing process between authorities and operators as they are either improving the local network or making relatively minor alterations.

Form of information

Regulation 6 prescribes the form of the information to be provided by an operator when they are required to provide information to an affected authority further to a request under section 6ZA (2) of the 1985 Act. Operators may provide the required information in any form which is reasonable based on the manner in which the information is kept. Transitional provision These regulations only apply in relation to notifications of proposed applications to vary or cancel a registration received by an affected authority on or after the date on which these regulations come into force.

Consultation

To comply with the requirements of section 6ZC (2) of the 1985 Act and other consultation requirements contained in the 2019 Act, a public consultation on the implementation of the bus provisions contained in Part 3 of the 2019 Act was published on 14 July 2021. The consultation ran for 12 weeks and closed on 6 October 2021.

The consultation asked 36 questions, of which nine focused specifically on the provision of service information. In total, 67 responses were received to the consultation, of which 42 were from organisations and 25 from individuals. The main theme was the importance of transparency as respondents called on operators to provide as much information as possible to assist relevant authorities about service changes or cancellations.

When asked what considerations might need to be taken into account when determining what revenue and patronage information an operator should be required to provide to an affected authority under new section 6ZA(2) of the 1985 Act, a majority of respondents listed various information types purported to enable a local transport authority to determine appropriate actions in response to variations and cancellations of services. A wide range of suggestions were made for types of information that would enable a local transport authority to analyse travel patterns and conduct trend analyses.

Respondents cited a wide range of specific types of information that they thought should be prescribed, including time-categorised information, route information, and origin and destination data. When considering what specific information should not be prescribed, opinions were split between all information being prescribed including commercially sensitive information, and all information being prescribed except for commercially confidential or sensitive information. The analysis report is published on the Transport Scotland website.

Additionally, policy officials within Transport Scotland engaged with representatives from local authorities and bus operators who will be using the information-sharing process, representatives from Regional Transport Partnerships, and representatives from organisations such as ATCO, CoSLA, Bus Users Scotland and CPT to obtain views to inform the development of these regulations.

They also engaged with public sector organisations, including the Traffic Commissioner for Scotland and the Competition and Markets Authority, on technical aspects, such as elements of the bus registration process. This engagement helped inform the development of these regulations.

Impact Assessments

It is not considered necessary to carry out impact assessments for this instrument. These regulations make detailed provision about the information-sharing process contained in sections 6ZA to 6ZC of the 1985 Act (inserted by section 39 of the 2019 Act), and they do not seek to change the policy intent of that process. The following impact assessments were carried out in relation to the implementation of the bus provisions contained in Part 3 of the 2019 Act (including section 39 and the information-sharing process to which these regulations relate): -

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

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

Financial Effects

As stated above a partial Business and Regulatory Impact Assessment (“BRIA”) was completed for the implementation of Part 3 of the 2019 Act. This concluded the financial implications of implementing the information-sharing process contained in section 39 were likely to be minimal because the legislation formalises a similar voluntary arrangement that is currently in place between operators and local transport authorities.

A BRIA has not been completed for this instrument as it has no financial effects on the Scottish Government, local government, or business.

Scottish Government
Transport Scotland
November 2022