

Net Zero, Energy and Transport Committee
Tuesday 30 April 2024
15th Meeting, 2024 (Session 6)

Note by the Clerk on the Transport Partnerships (Transfer of Functions) (Scotland) Order 2024 [draft]

Overview

1. At this meeting, the Committee will take evidence from the Minister for Agriculture and Connectivity and officials on the Transport Partnerships (Transfer of Functions) (Scotland) Order 2024 before debating a motion in the name of the Minister inviting the Committee to recommend approval of the instrument.
2. This is a draft Scottish Statutory Instrument (SSI), which requires approval by resolution of the Parliament before it can become law. More information about the instrument is summarised below:

Title of instrument: [The Transport Partnerships \(Transfer of Functions\) \(Scotland\) Order 2024](#) [draft]

Laid under: [Section 52\(3\) of the Transport \(Scotland\) Act 2005](#)

Laid on: 26 March 2024

Procedure: Affirmative

Lead committee to report by: 20 May 2024

Commencement: If approved, the instrument comes into force on the day after the day on which it is made.

Procedure

3. Under the affirmative procedure, an instrument must be laid in draft and cannot be made (or come into force) unless it is approved by resolution of the Parliament.
4. Once laid, the instrument is referred to:
 - the Delegated Powers and Law Reform (DPLR) Committee, for scrutiny on various technical grounds, and
 - a lead committee, whose remit includes the subject-matter of the instrument, for scrutiny on policy grounds.
5. The lead committee, taking account of any recommendations made by the DPLR Committee (or any other committee), must report within 40 days of the instrument being laid.

6. The normal practice is to have two agenda items when an affirmative instrument is considered by the lead committee:
 - an evidence session with the Minister and officials, followed by
 - a formal debate on a motion, lodged by the Minister, inviting the lead committee to recommend approval of the instrument.
7. Only MSPs may participate in the debate, which may not last for more than 90 minutes. If there is a division on the motion, only committee members may vote. If the motion is agreed to, it is for the Chamber to decide, at a later date, whether to approve the instrument. The Committee must then report on the instrument to the rest of the Parliament.

Delegated Powers and Law Reform Committee consideration

8. The DPLR Committee considered the instrument on 16 April 2024 and reported on it in its [26th Report, 2024](#). The DPLR Committee made no recommendations in relation to the instrument.

Purpose of the instrument

9. The purpose of this Order is to give three regional Transport Partnerships (RTPs) the ability to exercise certain functions related to bus services under the Transport (Scotland) Act 2001, as amended by the Transport (Scotland) Act 2019. The RTPs are Shetland Transport Partnership (“ZetTrans”), South-West of Scotland Transport Partnership (“SWestrans”) and West of Scotland Transport Partnership (also known as Strathclyde Partnership for Transport or “SPT”),
10. Under the Transport (Scotland) Act 2005, the Scottish Ministers could confer on RTPs powers to set up Quality Partnerships (QPs) and Quality Contracts (QCs), as established in the 2001 Act. The principal aim of QPs and QCs were to enable local transport authorities and operators to collaborate on extending local bus services.
11. Via the 2019 Act, the Scottish Government amended the concepts of QPs and QCs to Bus Service Improvement Partnerships and Local Service Franchises. Following the passage of the 2019 Act, RTPs were able to exercise their QP and QC functions through transitional arrangement which ended in December 2023, when they were repealed.
12. This instrument seeks to reaward these powers to RTPs through the introduction of a new Order made under the 2005 Act. The Policy Note says a new Order under the 2005 Act is required “In order for the RTPs to be able to use the replacement functions in the amended 2001 Act, as well the new power to run their own services”.
13. The Explanatory and Policy Notes accompanying the instrument are included in full in the annexe below.

Clerks to the Committee

Annexe: Accompanying documents

EXPLANATORY NOTE

(This note is not part of the Order)

This Order provides for certain transport-related functions of Shetlands Islands Council, Dumfries and Galloway Council and the Strathclyde Passenger Transport Authority to be exercisable by the Shetland Transport Partnership, the South-West of Scotland Transport Partnership and the West of Scotland Transport Partnership (“the Transport Partnerships”).

Articles 2 to 4 transfer specified functions under the Transport (Scotland) Act 2001 (“the 2001 Act”) to the Transport Partnerships. The transferred functions are exercisable by each of the Transport Partnerships concurrently with the original holder of those functions.

Article 5 specifies the functions transferred. These are functions under the 2001 Act relating to the provision of bus services by local transport authorities, bus services improvement partnerships and local services franchises.

Article 6 modifies the definition of “local transport authority” in section 82(1) of the 2001 Act to include the Transport Partnerships.

POLICY NOTE

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

SSI 2024/XXX

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

Purpose of Instrument:

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

Policy Objectives

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

2019 Act also provides local transport authorities with a new power to run their own bus services which sits alongside their existing ability to subsidise services.

The RTPs to which this Order relates previously had the power to form Quality Partnerships and Quality Contracts, functions that were transferred to them from their local transport authorities by Orders under section 10 of the Transport (Scotland) Act 2005 which were laid in 2006¹²³. As of 4 December 2023, the Quality Partnership and Quality Contract functions were repealed by the 2019 Act and can no longer be used by the RTPs. In order for the RTPs to be able to use the replacement functions in the amended 2001 Act, as well the new power to run their own services, a new Order under section 10 of the Transport (Scotland) Act 2005 is required. This Order is intended to ensure continuity of powers for affected RTPs.

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

EU Alignment Consideration

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

Consultation

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

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

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

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

Impact Assessments

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

¹ <https://www.legislation.gov.uk/ssi/2006/106/contents/made>

² <https://www.legislation.gov.uk/ssi/2006/527/contents/made>

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

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

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

Financial Effects

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

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

Scottish Government
Transport Scotland
March 2024