

Transport Bill

[AS AMENDED AT CONSIDERATION STAGE]

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SCHEDULES:

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A

B I L L

TO

Make provision relating to public passenger transport and ancillary services; and for connected purposes.

BE IT ENACTED by being passed by the Northern Ireland Assembly and assented to by Her Majesty as follows:

PART 1

PUBLIC PASSENGER TRANSPORT SERVICES

General

Provision of public passenger transport services

5 **1.**—(1) The Department must secure the provision of public passenger transport services with due regard to accessibility, economy, efficiency, safety of operation and sustainability.

(2) For that purpose the Department may—

- 10 (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;
- 15 (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.

20 (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.

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- (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; 5
“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; 10
“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 15
(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. 20
- (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— 25
(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). 30

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. 35
- (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. 40

Service permits

Interpretation

3. In sections 4 to 17 “permit” means a service permit.

Applications

5 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—

- 10 (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.

15 (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

20 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.

25 (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—

- 30 (a) in a case where the Department is required by virtue of regulations under section 45(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

35 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—

- 40 (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;

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- (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; 5
- (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— 10
 - (i) persons already providing 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 15
 - (v) the Northern Ireland Tourist Board.
- (3) In subsection (2)(b)(i) “services” means—
 - (a) public passenger transport services; or
 - (b) any other services to which section 33(1)(a) applies.
- Duration** 20

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. 25

(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. 30

(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. 35

(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). 40

Variation

8.—(1) On the application of the holder of a permit or otherwise, the Department may vary the permit.

5 (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.

10 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.

15 (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.

20 (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

25 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;
- 30 (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
- 35 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;
- 40 (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);

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- (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 permit-holder has been convicted of an offence under the National Minimum Wage Act 1998 (c. 39);
 - (i) 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. 5
- (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 (i)) 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. 10
- (4) Where the Department has given a direction suspending or curtailing a permit under subsection (1) it may— 15
- (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. 20
- (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 25
 - (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. 30
- (2) If a person applies for or obtains a permit while disqualified under subsection (1)— 35
- (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. 40
- (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
- 5 (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
10 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;
- 15 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—
 - 20 (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).
- 25 (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)).

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

- 12.—**(1) This subsection applies where—
 - (a) an application is made for a new permit in respect of a service for which there is an existing permit;
 - (b) the applicant is the holder of the existing permit; and
 - 35 (c) the Department considers that it is in the public interest for that service to be provided under a service agreement.
- (2) Where subsection (1) applies, the Department shall not refuse the application without first giving the applicant notice that it is considering refusing the application for the reason mentioned in paragraph (c) of that subsection and
40 holding an inquiry if the applicant requests the Department to do so.
- (3) The Department shall not—
 - (a) give a direction under section 10(1) or (2) in respect of any permit, or

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- (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. 5
- (4) 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), 10
- 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.
- (5) If the Department refuses to give a direction under subsection (4) 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. 15
- (6) 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** 20
- 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— 25
- (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— 30
- (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. 35
- (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. 40

(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

5 **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—

10 (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

15 (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.

20 (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.

25 (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.

30 (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

35 **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.

40 **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

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(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; 5
- (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 10

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; 15
- (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. 20

PART 2

BUSES, TAXIS AND TRAINS

Bus operator’s licences

Road service licence renamed 25

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— 30

““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 35

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—

- 5 (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;
- 10 (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

15 **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—

20 “(c) a service agreement or service permit under the Transport Act (Northern Ireland) 2011 so provides.”.

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

- (a) paragraph (a) shall cease to have effect;
- 25 (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—

- 30 (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);
- 35 (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

40 **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

PART 2

be inserted the words “in accordance with any service agreement under the Transport Act (Northern Ireland) 2011”.

PART 3

CONSUMER COUNCIL

Forward work programme 5

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). 10

(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— 15

(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. 20

(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. 25

(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 30

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. 35

(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 (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

10 **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.

15 (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;

20 (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).

25 (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;

30 (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

35 (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.

40 (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.

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(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.

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(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.

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(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—

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- (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—

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- (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,

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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.

30

(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.

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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

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(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
5 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
10 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;
20 (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;
25 (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
30 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—
35 (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
40 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

PART 4

(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.

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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).

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(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.

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(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.

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(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

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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

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;
- 10 (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;

- 15 “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.

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

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

- 25 (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
 - 30 (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—

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

PART 5

- (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.

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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

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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

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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.

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(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

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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.

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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.

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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.

5 (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

10 **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

15 **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.

20 (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;

25 “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;

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

35 (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;

40 “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.

PART 6

(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. 5

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.

Regulations - general 10

45.—(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— 15

- (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; 20
- (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); 25
- (f) ticketing machines and systems.

(3) No regulations to which this subsection applies shall be made unless a draft of the regulations has been laid before, and approved by resolution of, the Assembly. 30

(4) Subsection (3) applies to regulations under this Act if they include—

- (a) regulations under section 42(3) or 43(2); or
- (b) regulations under this section which make the declaration mentioned in subsection (6). 35

(5) Any other regulations under this Act shall be subject to negative resolution.

(6) 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. 40

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

Interpretation

46.—(1) In this Act—

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

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

“authorised person”, except in section 42, means—

(a) any person authorised in writing by the Department for the purposes of this Act; or

10 (b) an examiner appointed by the Department of the Environment under Article 74 of the 1995 Order;

“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;

15 “the Department” means the Department for Regional Development;

“modification” includes addition, omission and alteration;

20 “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—

25 (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);

30 “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;

35 “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);

40 “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).

PART 6

(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

47.—(1) Schedule 1 (which contains amendments) shall have effect. 10

(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— 15

- (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 20

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

- (a) sections 35, 37, 41 and 46;
- (b) this section; and
- (c) section 49. 25

(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), 30

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

Short title

49. This Act may be cited as the Transport Act (Northern Ireland) 2011. 35

SCHEDULES

SCHEDULE 1

Section 47(1).

AMENDMENTS

The Motor Vehicles and Road Traffic Act (Northern Ireland) 1930 (c. 24)

- 5 1. In section 2 (conveyance of mails by public service vehicles), in subsection (3) for “road service” substitute “bus operator’s”.

The Finance Act (Northern Ireland) 1966 (c. 21)

- 10 2. In section 14 (grants to operators of bus services), in paragraph (e) of the definition of “operator” for the words from “road service licence” to “1967” substitute “service agreement or service permit under the Transport Act (Northern Ireland) 2011”.

The 1967 Act

- 15 3. In section 4 (grant of road service licences), in subsection (3) for “road service” substitute “bus operator’s”.
- 15 4.—(1) Amend section 5 (particulars to be provided by applicants) as follows.
- (2) In subsection (1) for “road service” substitute “bus operator’s”.
- (3) In subsection (2) for “road service” substitute “bus operator’s”.
- (4) In subsection (3) for “road service” substitute “bus operator’s”.
- (5) In subsection (4) for “road service” substitute “bus operator’s”.
- 20 5.—(1) In section 6 (functions as to grant of licences), amend subsection (1) as follows.
- (2) For “road service” in the first place where it occurs substitute “bus operator’s”.
- 25 (3) In paragraph (d) for “road service” in each place where it occurs substitute “bus operator’s”.
- (4) In paragraph (f) for “road service” substitute “bus operator’s”.
- (5) In paragraph (g) for “road service” in each place where it occurs substitute “bus operator’s”.
- 30 6.—(1) Amend section 6A (refusal of licence in certain cases) as follows.
- (2) In subsection (1) for “road service” substitute “bus operator’s”.
- (3) In subsection (4) for “road service” substitute “bus operator’s”.
- 7.—(1) Amend section 7 (conditions) as follows.
- (2) In subsection (1) for “road service” substitute “bus operator’s”.
- (3) In subsection (1A) for “road service” substitute “bus operator’s”.

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- (4) In subsection (1B) for “road service” substitute “bus operator’s”.
- (5) In subsection (2) for “road service” substitute “bus operator’s”.
- (6) In subsection (2A) for “road service” substitute “bus operator’s”.
- (7) In subsection (3) for “road service” substitute “bus operator’s”.
8. In section 7A (conditions as to matters required to be notified), in subsection 5
(1) for “road service” substitute “bus operator’s”.
- 9.—(1) Amend section 8 (duration of licences) as follows.
 - (2) In subsection (1) for “road service” substitute “bus operator’s”.
 - (3) In subsection (2) for “road service” in each place where it occurs substitute 10
“bus operator’s”.
 - (4) In subsection (2A) for “road service” in both places where it occurs
substitute “bus operator’s”.
 - (5) Omit subsection (3).
 - (6) In subsection (4) for “road service” substitute “bus operator’s”.
- 10.—(1) Amend section 9 (fees) as follows. 15
 - (2) In subsection (1)(a) for “road service” substitute “bus operator’s”.
 - (3) In subsection (2) for “road service” substitute “bus operator’s”.
- 11.—(1) Amend section 10 (revocation and suspension) as follows.
 - (2) In subsection (1) for “road service” substitute “bus operator’s”.
 - (3) In subsection (2) for “road service” substitute “bus operator’s”. 20
 - (4) In subsection (3) for “road service” in each place where it occurs substitute
“bus operator’s”.
 - (5) In subsection (3A) for “road service” substitute “bus operator’s”.
 - (6) In subsection (4) for “road service” substitute “bus operator’s”.
 - (7) In subsection (5) for “road service” substitute “bus operator’s”. 25
12. In section 10A (exemption from licensing requirements of certain motor
vehicles used under other permits), in subsection (1)—
 - (a) for “road service licence) and” substitute “bus operator’s licence),”;
 - (b) after “thereof)” insert “and section 1(7) of the Transport Act (Northern
Ireland) 2011 (requirement of service agreement or service permit)”. 30
13. In section 31 (records of licences), in subsection (1) for “road service”
substitute “bus operator’s”.
14. In section 45 (regulations for purposes of Parts 2 and 4), in paragraph (f) for
“road service” substitute “bus operator’s”.
- 15.—(1) Amend section 46C (financial standing of road passenger transport 35
operators) as follows.
 - (2) In subsection (1) for “road service” substitute “bus operator’s”.
 - (3) In subsection (2) for “road service” substitute “bus operator’s”.

16.—(1) Amend section 46D (professional competence of road passenger transport operators) as follows.

(2) In subsection (1) for “road service” in both places where it occurs substitute “bus operator’s”.

5 (3) In subsection (2) for “road service licence” substitute “licence under Part 2”.

(4) In subsection (3)(a) for “road service licence” substitute “licence under Part 2”.

(5) In subsection (5) for “road service” substitute “bus operator’s”.

10

SCHEDULE 2

Section 47.

REPEALS

	Short Title	Extent of repeal
15	The Transport Act (Northern Ireland) 1967 (c. 37)	In section 5(1), paragraphs (b) and (c). In section 6(1), the words from “have regard” in the first place where they occur to “licences, and” in the first place where they occur, the word “shall” in the second place where it occurs, and paragraphs (a), (b), (h) and (i). Section 6(2) and (3). Section 8(3). Section 11. Section 75A.
20		
25	The Transport (Northern Ireland) Order 1977 (NI 10)	In section 81(1), the definition of “road service licence”. Article 6.
30	The General Consumer Council (Northern Ireland) Order 1984 (NI 12)	In Part 1 of Schedule 2, in the second paragraph, “6(2) and (3)”.
35	The Transport (Amendment) (Northern Ireland) Order 1990 (NI 7)	Article 6.

SCH. 2

Short Title	Extent of repeal
The Taxis Act (Northern Ireland) 2008 (c. 4)	In section 8, paragraph (a). Sections 9 to 11. Section 54(3).

5