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STATUTORY INSTRUMENTS

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**1990 No. 994 (N.I. 7)**

**NORTHERN IRELAND**

**The Transport (Amendment) (Northern Ireland) Order 1990**

*Made* - - - - *1st May 1990*  
*Coming into operation* *2nd July 1990*

At the Court at Buckingham Palace, the 1st day of May 1990  
Present,  
The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order has been approved by a resolution of each House of Parliament:  
Now, therefore, Her Majesty, in exercise of the powers conferred by paragraph 1 of Schedule 1 to the Northern Ireland Act 1974<sup>(1)</sup> and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

**Title and commencement**

1. This Order may be cited as the Transport (Amendment) (Northern Ireland) Order 1990 and shall come into operation on expiration of 2 months from the day on which it is made.

**Interpretation**

2.—(1) The Interpretation Act (Northern Ireland) 1954<sup>(2)</sup> shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

(2) In this Order “the principal Act” means the Transport Act (Northern Ireland) 1967<sup>(3)</sup>.

**Modification of licensing requirements in relation to motor vehicles used for certain purposes**

3. After section 10 of the principal Act there shall be inserted the following sections—

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(1) 1974 c. 28  
(2) 1954 c. 33 (N.I.)  
(3) 1967 c. 37 (N.I.)

**“Exemption from licensing requirements of certain motor vehicles used under permits.**

**10A.** Section 4(2) (requirement of road service licence) and Articles 59, 60 and 70 of the Road Traffic (Northern Ireland) Order 1981 (licensing of public service vehicles and drivers, etc. thereof) shall not apply—

- (a) to the use of any motor vehicle under a permit granted under section 10B, if and so long as the requirements under subsection (2) of that section are met; or
- (b) to the driving of any motor vehicle at a time when it is used as mentioned in paragraph (a).

**Permits in relation to buses used by educational and other bodies.**

**10B.—**(1) In this section and sections 10C and 10D—

“bus” means a motor vehicle which is adapted to carry more than eight passengers;

“large bus” means a motor vehicle which is adapted to carry more than sixteen passengers;

“small bus” means a motor vehicle which is adapted to carry more than eight but not more than sixteen passengers; and

“permit” means a permit granted under this section in relation to the use of a bus for carrying passengers for hire or reward.

(2) The requirements that must be met in relation to the use of a bus under a permit for the exemption under section 10A(a) to apply are that the bus—

- (a) is being used by a body to whom a permit has been granted under this section;
- (b) is not being used for the carriage of members of the general public nor with a view to profit nor incidentally to an activity which is itself carried on with a view to profit;
- (c) is being used in every respect in accordance with any conditions attached to the permit; and
- (d) is not being used in contravention of any provision of regulations made under section 10D.

(3) A permit in relation to the use of a small bus may be granted by a body designated by an order under subsection (6) either to itself or to any other body to whom, in accordance with the order, it is entitled to grant a permit.

(4) A permit in relation to the use of a large bus may be granted by the Department to any body which assists or co-ordinates the activities of bodies which appear to the Department to be concerned with—

- (a) education;
- (b) religion;
- (c) social welfare; or
- (d) other activities of benefit to the community.

(5) The Department shall not grant a permit in relation to the use of a large bus unless satisfied that there will be adequate facilities or arrangements for maintaining any bus used under the permit in a fit and serviceable condition.

(6) The Department may by order, made subject to negative resolution, designate for the purposes of this section bodies appearing to it to be eligible in accordance with subsection (7), and with respect to any body designated by it, any such order—

- (a) shall specify the classes of body to whom the designated body may grant permits;
  - (b) may impose restrictions with respect to the grant of permits by the designated body and, in particular, may provide that no permit may be granted, either generally or in such cases as may be specified in the order, unless there are attached to the permit such conditions as may be so specified; and
  - (c) may require the body to make returns with regard to the permits granted by it.
- (7) A body is eligible under this subsection if it is concerned with—
- (a) education;
  - (b) religion;
  - (c) social welfare;
  - (d) recreation; or
  - (e) other activities of benefit to the community.
- (8) A body may hold more than one permit but may not use more than one bus at any one time under the same permit.

**Further provision with respect to permits under section 10B.**

**10C.**—(1) Subject to subsection (2), a permit shall specify the body to whom it is granted.

(2) A permit may be granted to a named individual on behalf of a body if, having regard to the nature of that body, it appears to the Department or the body granting the permit appropriate to do so.

(3) Where a permit is granted to a named individual on behalf of a body, it shall be treated for the purposes of this section and section 10B as granted to that body.

(4) In addition to any conditions attached to such a permit by virtue of section 10B(6)(b), the Department or the body granting such a permit may attach to it such conditions as it considers appropriate, including, in particular, conditions—

- (a) limiting the passengers who may be carried in any bus used under the permit to persons falling within such classes as may be specified in the permit; and
- (b) with respect to such other matters as may be prescribed.

(5) Subject to subsection (6), a permit may be varied or revoked—

- (a) by the Department or other body who granted it; and
- (b) in the case of a permit granted by a body designated under section 10B(6), after consultation with that body, by the Department.

(6) A permit may not be varied so as to substitute another body for the body to whom it was granted.

(7) A permit shall remain in force until—

- (a) it is revoked under subsection (5); or
- (b) in the case of a permit granted by a body designated under section 10B(6), that body ceases to be so designated.

**Permits under section 10B: regulations.**

**10D.** The Department may prescribe—

- (a) the conditions to be fulfilled by any person driving a bus while it is being used under a permit;

- (b) the form of permits; and
- (c) the documents, plates and marks to be carried by any bus while it is being used under a permit and the manner and position in which they are to be carried.”

#### **Penalties for certain offences**

4.—(1) In section 57 of the principal Act, for subsection (2) there shall be substituted the following subsections—

“(2) A person who contravenes a byelaw made under this section shall be guilty of an offence and, subject to subsection (2A), shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale and, in the case of a continuing offence, a further fine not exceeding £10 for each day on which the offence continues after conviction.

(2A) Byelaws made under this section may, for offences under subsection (2) in relation to the byelaws, fix lower maximum fines than the sums mentioned in that subsection.”

(2) In section 65(1) of the principal Act, for the words from “to a fine” onwards there shall be substituted the words “to a fine not exceeding level 3 on the standard scale”.

#### **Provision for penalty fares**

5.—(1) After Part VA of the principal Act there shall be inserted the following Part—

### **“PART VB**

#### **PENALTY FARES ON BUSES AND TRAINS**

##### **Operation of Schedule 1B.**

67K.—(1) Schedule 1B shall apply in relation to—

- (a) travel on a bus service, as defined in section 14(7) of the Finance Act (Northern Ireland) 1966; and
- (b) travel on a train service, that is to say a service for the carriage of passengers provided by the railway undertaking;

if an order under subsection (2) is for the time being in force with respect to the service in question.

(2) The Department may by order (referred to in subsections (3) and (4) as an “activating order”) provide that Schedule 1B shall have effect as from such day as may be specified in the order, with respect to any bus service or train service mentioned in subsection (1).

(3) The revocation by the Department of an activating order shall be without prejudice to the power of the Department to make further activating orders under this section.

(4) No activating order may be made except at the request of the operator of the service in question.

(5) In subsection (4) “operator”—

- (a) in relation to a bus service, has the meaning given by section 14(7) of the Finance Act (Northern Ireland) 1966, and
- (b) in relation to a train service, means the railway undertaking.”

(2) After Schedule 1A to the principal Act there shall be inserted the Schedule set out in Schedule 1.

### **Grants for transport facilities and services**

6. After section 75 of the principal Act there shall be inserted the following section—

**“Grants for transport facilities and services.**

**75A.** The Department may make, in such cases and subject to such terms and conditions as it thinks fit, grants to any person towards expenditure incurred or to be incurred by that person in providing, maintaining or improving—

- (a) any motor vehicle, equipment or other facilities and services provided wholly or mainly for the purpose of facilitating travel by members of the public who are disabled; or
- (b) any equipment or facilities specially designed or adapted for that purpose which are incorporated in any motor vehicle, equipment or other facilities not provided wholly or mainly for that purpose.”

### **Minor and consequential amendments**

7. The minor and consequential amendments set out in Schedule 2 shall have effect.

### **Repeals**

8. The statutory provisions specified in Schedule 3 are hereby repealed to the extent specified in the third column of that Schedule.

*G. I. de Deney*  
Clerk of the Privy Council

## SCHEDULES

### SCHEDULE 1

Article 5(2).

### PENALTY FARES

### SCHEDULE TO BE INSERTED AFTER SCHEDULE 1A TO THE PRINCIPAL ACT

### “SCHEDULE 1B

Section 67K.

### PROVISION FOR PENALTY FARES ON BUSES AND TRAINS

#### *Liability to pay a penalty fare*

1.—(1) If a person travelling on a ticket bus service who has had a reasonable opportunity to obtain a fare ticket for a journey on that service fails to produce a fare ticket or an authority to travel on being required to do so by an authorised person, he shall be liable to pay a penalty fare if required to do so by an authorised person.

(2) If a person travels on a non-ticket bus service without paying the fare properly payable for a journey on that service and, while so travelling, fails to produce an authority to travel on being required to do so by an authorised person, he shall be liable to pay a penalty fare if required to do so by an authorised person.

(3) In this paragraph a “ticket bus service” means a bus service on which fare tickets are issued in return for fares paid by persons travelling on that service, and a “non-ticket bus service” means a bus service on which fare tickets are not so issued.

2.—(1) Subject to sub-paragraphs (2) and (3) and paragraph 3, if a person travelling on a train service fails to produce a fare ticket or an authority to travel on being required to do so by an authorised person, he shall be liable to pay a penalty fare if required to do so by an authorised person.

(2) A person shall not be liable to pay a penalty fare under this paragraph if at the time when and the station where he started to travel on the train service there were no facilities available for the sale of the necessary fare ticket for his journey.

(3) Without prejudice to sub-paragraph (2), a person shall not be liable to pay a penalty fare under this paragraph if at the time when and the station where his journey began—

(a) there was displayed a notice (however expressed) indicating that it was permissible for passengers beginning a journey at that station at that time to do so without having a fare ticket or an authority to travel; or

(b) a person in the uniform of the railway undertaking gave permission to the same effect.

(4) In any case where the defendant has provided the plaintiff with a relevant statement in due time it shall be for the plaintiff to show that the facts of the case do not fall within sub-paragraph (2) or (3); and in any other case it shall be for the defendant to show that the facts of the case fall within either of those sub-paragraphs.

(5) For the purposes of sub-paragraph (4)—

(a) a relevant statement is a statement giving an explanation of the defendant’s failure to produce a fare ticket or authority to travel, together with any information as to his journey

relevant to that explanation (including, in every case, an indication of the time when and the station where he started to travel on the train service); and

- (b) a statement is provided in due time if it is provided when the defendant is required to produce a fare ticket or authority to travel, or at any later time before the expiration of the period of 21 days beginning with the day following the day on which the journey is completed.

3.—(1) Paragraph 2 shall not apply to a person travelling on a conductor train service whose journey begins at a non-ticket station; but where such a person has had an opportunity while so travelling to obtain a fare ticket he shall, if he fails to produce a fare ticket or authority to travel on being required to do so by an authorised person, be liable to pay a penalty fare if required to do so by an authorised person.

(2) In sub-paragraph (1)—

“conductor train service” means a train service on which fare tickets are issued in return for fares paid by persons travelling on that service; and

“non-ticket station” means a station on a conductor train service at which there is no provision at any time for the sale of fare tickets.

#### *Amount of penalty fare, etc.*

4.—(1) Subject to sub-paragraph (2), a penalty fare—

- (a) shall be an amount equal to the full single fare for the journey the person has made plus £5; and
- (b) shall be payable to the person providing the service on which the requirement to pay the penalty fare is made before the expiration of the period of 21 days beginning with the day following the day on which the journey is completed.

(2) The Department may by order, made subject to negative resolution, alter the amount of the penalty fare specified in sub-paragraph (1)(a).

(3) An authorised person who requires a person (referred to below as “the passenger”) to pay a penalty fare shall give him either a receipt for the payment of the amount of the penalty (where the passenger makes that payment to the authorised person) or a notice stating that the requirement has been made.

(4) A receipt or notice given under sub-paragraph (3) shall specify the passenger’s destination on the bus or train service on which he is travelling when required to pay the penalty fare, and shall operate as an authority to him to complete his journey to or at that destination.

(5) For the purposes of sub-paragraph (4), the passenger’s destination shall (unless he is at that destination or only one destination is possible in the circumstances) be taken to be the destination stated by the passenger or, in default of any statement by him for that purpose, such destination as may be specified by the authorised person.

#### *Supplementary provisions*

5.—(1) A person who is required to pay a penalty fare shall, unless he pays, immediately and in cash, the amount of the penalty fare to an authorised person requiring such payment, give to that authorised person, if that person requires him to do so, his name and address; and any person failing to do so shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

*Status: This is the original version (as it was originally made).*

(2) It shall be the duty of the operator to secure that the requirements of sub-paragraph (3) or, as the case may be, (4) with respect to warning notices are met in the case of a bus or train service in relation to travel on which the penalty fare provisions have effect.

(3) In the case of a bus service, a warning notice meeting the requirements of sub-paragraphs (5) and (6) shall be posted in every vehicle used in providing that service or, where any such vehicle has more than one deck, on each deck of that vehicle, in such a position as to be readily visible to persons travelling on the vehicle.

(4) In the case of a train service, a warning notice meeting the requirements of sub-paragraphs (5) and (6) shall be posted—

- (a) at every station at which persons may start to travel on that service, in such a position as to be readily visible to prospective passengers; and
- (b) in every carriage of every train used in providing that service in such a position as to be readily visible to passengers travelling in the carriage.

(5) A warning notice posted pursuant to sub-paragraph (3) or (4) shall (however expressed) indicate the circumstances (as provided in paragraph 1(1) or (2) or, as the case may be, paragraph 2(1)) in which persons travelling on the service in question may be liable to pay a penalty fare.

(6) Every warning notice posted in pursuance of this paragraph shall state the amount of the penalty fare relevant to the bus or train service on which, or in relation to which, it is posted.

(7) Where an authorised person requires any person to do anything pursuant to any provision of this Schedule he shall, if so requested by the person concerned, produce to that person a duly authenticated document showing his authority; and a requirement by an authorised person shall be of no effect if, as respects that requirement, he fails to comply with this sub-paragraph.

**6.—(1)** Where a person has become liable under paragraph 1 or 2 to pay a penalty fare in respect of any bus or train journey (in this paragraph referred to as “the relevant journey”), no proceedings shall be brought against him for any of the offences specified in sub-paragraph (2) before the end of the period mentioned in paragraph 4(1); and no such proceedings shall be brought after the end of that period if either—

- (a) he has paid the penalty fare to the person providing the service on which the requirement to pay that fare was made, before the end of that period; or
- (b) an action has been brought against him for the recovery of that fare.

(2) The offences mentioned in sub-paragraph (1) are—

- (a) any offence under section 5(3)(a) or (b) of the Regulation of Railways Act 1889<sup>(4)</sup> (travelling without paying the correct fare with intent to avoid payment) arising from the relevant journey;
- (b) any offence under byelaws made under section 57 (byelaws for railways, etc.) involving a failure to obtain or produce a fare ticket or authority to travel for the relevant journey; and
- (c) any offence under the Road Traffic (Northern Ireland) Order 1981<sup>(5)</sup> in respect of a contravention of regulations made under Article 66 of that Order by failing to pay the fare properly payable for the relevant journey or any part of it.

(3) If proceedings are brought against any such person for any such offence he shall cease to be liable to pay the penalty fare and, if he has paid it, the person to whom it was paid shall be liable to repay to him an amount equal to the amount of that fare.

**7.—(1)** In this Schedule—

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(4) 1889 c. 57

(5) 1981 NI 1



“authorised person” means a person authorised by the operator providing the service in question;

“authority to travel” means any ticket (other than a fare ticket), permit, voucher or other document authorising the person to whom it is issued to travel on any bus or train service to which section 67K applies, whether or not subject to any terms, limitations or conditions as to its use;

“bus journey” means a journey on a bus service to which section 67K applies;

“bus service” has the meaning given by section 67K(1)(a);

“fare ticket” means a ticket showing payment of a fare for travelling on a bus or train journey and authorising the person to whom it is issued to travel on any such journey for the distance covered by that fare, whether or not subject to any terms, limitations or conditions as to its use;

“operator” has the meaning given by section 67K(5);

“penalty fare” means a penalty fare payable pursuant to paragraph 1 or 2;

“train journey” means a journey on a train service to which section 67K applies; and

“train service” has the meaning given by section 67K(1)(b).

(2) References in this Schedule to any necessary fare ticket for a person’s journey on any such bus or train service are references to a fare ticket required for his journey on the occasion in question which—

- (a) applies to his journey on that occasion; and
- (b) shows payment of the fare properly payable for that journey.”.

## SCHEDULE 2

Article 7.

### MINOR AND CONSEQUENTIAL AMENDMENTS

#### *The principal Act*

1. In section 4(2) omit the words “sections 12 and 13 and to”.
2. Omit sections 25(3), 29(1)(f) and 44.
3. In section 29(2E) for the words “employed by” substitute the words “in the full-time employment of”.
4. In section 46, at the end of paragraph (a) add the words “or any payment in respect of a journey in a motor vehicle exempted from licensing requirements by virtue of section 10A”.
5. In section 66, after subsection (8), insert the following subsection—  
“(8A) An order under this section shall be made subject to negative resolution.”.

#### *The Road Traffic (Northern Ireland) Order 1981 (1981 NI 1)*

6. In Article 2(2), in the definition of “public service vehicle” after the word “Department” insert the words “any motor vehicle exempted from licensing requirements by virtue of section 10A of the Transport Act (Northern Ireland) 1967”.
7. In Article 94(3), after the words “payment shall” insert the words “if the motor vehicle is used under a permit granted under section 10A of the Transport Act (Northern Ireland) 1967 or”.

**Status:** This is the original version (as it was originally made).

## SCHEDULE 3

Article 8.

## REPEALS

Chapter	Short Title	Extent of Repeal
1967 c. 37 (N.I.).	The Transport Act (Northern Ireland) 1967.	In section 4(2) the words “sections 12 and 13 and to”. Sections 25(3), 29(1)(f) and 44.

**EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order amends the Transport Act (Northern Ireland) 1967.

The principal amendments are—

- (a) provision for the exemption of certain vehicles from public service vehicle licensing requirements when they are used in accordance with a permit (Article 3);
- (b) the creation of an offence under section 57 of the Act of contravening byelaws made under that section (Article 4);
- (c) provision for penalty fares to be charged for travel on a bus service or train service without paying the proper fare (Article 5 and Schedule 1); and
- (d) the empowering of the Department of the Environment to make grants towards expenditure incurred in providing vehicles and equipment to facilitate travel by the disabled (Article 6).