

## SCHEDULES

### SCHEDULE 17

Section 245.

#### PENALTY FARES

##### *Introductory*

- 1 (1) In this Schedule unless the context otherwise requires—
- “authorised person” means, in relation to any purpose, a person authorised for that purpose by Transport for London or by the person providing the service;
- “compulsory ticket area” means that part of a station which, under the byelaws of the person providing a train service to which this Schedule applies, passengers are not permitted to enter without a fare ticket, general travel authority or platform ticket;
- “fare ticket” means a ticket (including one issued by a third person) showing payment of a fare and authorising the person in respect of whom it is issued to make a single journey covered by that fare on a local service or train service to which this Schedule applies, or to make that journey and a return journey (whether or not it also authorises him to make a journey on a service provided by a third person);
- “general travel authority” means any permit (including one issued by a third person), other than a fare ticket, authorising the person in respect of whom it is issued to travel on a local service or train service to which this Schedule applies (whether or not it also authorises him to travel on a service provided by a third person);
- “penalty fare” means a penalty fare payable pursuant to paragraph 3 or 4 below;
- “the penalty fare provisions” means paragraphs 3 to 8 below;
- “person providing the service” means the operator of the service, except that, in the case of a service provided in pursuance of an agreement entered into by Transport for London under section 156(2) or (3)(a) of this Act or in pursuance of a transport subsidiary’s agreement, means Transport for London;
- “platform ticket” means a ticket authorising a person to enter a compulsory ticket area but not to make a journey;
- “station” means a station serving a train service to which this Schedule applies;
- “third person” means a person other than one referred to in paragraph 2(1) (a) or (b) below; and
- “train service” means a service for the carriage of passengers by rail.
- (2) Subject to sub-paragraph (3) below, a person is travelling on a train service to which this Schedule applies at any time when he is on a train forming part of that service or is in a compulsory ticket area.

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- (3) A person at a station is not to be taken as travelling by reason only of being in a compulsory ticket area or boarding a train at that station if he has entered that area or boards that train otherwise than for the purpose of making a journey and produces, if required to do so by an authorised person, a valid platform ticket.
- (4) Any reference in this Schedule to a person producing a fare ticket or general travel authority on being required to do so by an authorised person is a reference to producing, when so required, a fare ticket or general travel authority which, either by itself or together with any other fare ticket or general travel authority produced by that person at the same time, is valid for the journey he has made.
- (5) For the purposes of sub-paragraph (4) above—
- (a) a person who has entered a compulsory ticket area otherwise than by transferring from a train service provided by a third person but has not boarded a train shall be taken to have made a journey for which the minimum fare is payable; and
  - (b) a person who is on a train shall be taken to have made a journey ending at the next station at which the train is scheduled to stop.
- (6) In sub-paragraph (5) above “minimum fare” means the minimum fare for which a journey from the station in question could validly be made by the person in question.
- (7) For the purposes of this Schedule a person is to be taken as transferring from a service provided by a third person to a service to which this Schedule applies if, but only if, having travelled on a train forming part of the former service, he—
- (a) goes from that train into a compulsory ticket area and finishes his journey at the station of which that area forms part; or
  - (b) goes from that train into a compulsory ticket area and from that area boards a train forming part of a service to which this Schedule applies.
- (8) For the purposes of sub-paragraph (7)(b) above, in a case where the transfer takes place at a station controlled by a third person, “compulsory ticket area” means such area at that station as corresponds with a compulsory ticket area within the meaning of this Schedule.

#### *Operation of this Schedule*

- 2 (1) This Schedule applies to any local service or train service provided—
- (a) by Transport for London or any of its subsidiaries; or
  - (b) by any other person in pursuance of an agreement entered into by Transport for London under section 156(2) or (3)(a) of this Act, or in pursuance of a transport subsidiary’s agreement, which provides that this Schedule is to apply to services provided in pursuance of that agreement.
- (2) References in the following provisions of this Schedule to a local service or to a train service are, unless the context otherwise requires, references to a local service or a train service to which this Schedule applies.
- (3) The penalty fare provisions have effect in relation to travel on any local service or train service or any part of such a service if an order under sub-paragraph (4) below is for the time being in force in respect of such service or part of a service.
- (4) The Mayor may by order provide that the penalty fare provisions shall have effect, as from such day as may be specified in the order, with respect to any local service

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or train service or any part of any local service or train service, and different days may be specified in any such order with respect to different services or different parts of any service.

- (5) The revocation by the Mayor of an order made under sub-paragraph (4) above shall be without prejudice to the power of the Mayor to make further orders under that sub-paragraph as respects any service or part of a service dealt with by the order.
- (6) Any activating order made by the Secretary of State under section 3(4) of the London Regional Transport (Penalty Fares) Act 1992 and in force immediately before the coming into force of sub-paragraph (4) above shall have effect as from the coming into force of that sub-paragraph as if it were an order made by the Mayor under that sub-paragraph.
- (7) For the purposes of this Schedule a reference to an agreement entered into by Transport for London under section 156(2) or (3) of this Act includes a reference to an agreement—
  - (a) which was entered into by London Regional Transport under section 3(2) or (2A) of the London Regional Transport Act 1984, and
  - (b) which by virtue of section 300 or 415 of this Act has effect as if made by Transport for London.

#### *Penalty fares on local services*

- 3 (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 a general travel authority 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 a general travel authority 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 local 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 local service on which fare tickets are not so issued.

#### *Penalty fares on trains*

- 4 (1) Subject to sub-paragraph (2) below, if a person travelling on a train service fails to produce a fare ticket or a general travel authority 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) Subject to sub-paragraph (3) below, 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) A person who starts to travel on a train service by transferring to that service from a train service provided by a third person shall not be liable to pay a penalty fare under this paragraph if—
  - (a) on being required to produce a fare ticket or general travel authority he produces a valid deferred fare authority issued by that person; or

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- (b) at the time when and the station where he started to travel on the train service provided by that person there were no facilities for either the sale of the necessary fare ticket for his journey or the sale of deferred fare authorities.
- (4) Without prejudice to sub-paragraphs (2) or (3) above, 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 a general travel authority or (in the case of a station controlled by a third person) a deferred fare authority; or
- (b) a person in the uniform of the person controlling that station gave permission to the same effect.
- (5) In sub-paragraph (3) above, “deferred fare authority” means a ticket or other document described as such on its face; and a deferred fare authority is valid for the purposes of that paragraph if it authorises a person in possession of it to start a journey at the time when and the station where the person producing it started his journey.
- (6) Sub-paragraphs (7) and (8) below have effect with respect to the burden of proof in any action for the recovery of a penalty fare under this paragraph, so far as concerns the question whether the facts of the case fall within sub-paragraphs (2), (3)(b) or (4) above.
- (7) 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), (3)(b) or (4) above and in any other case it shall be for the defendant to show that the facts of the case fall within any of those provisions.
- (8) For the purposes of sub-paragraph (7) above—
- (a) a relevant statement is a statement giving an explanation of the defendant’s failure to produce a fare ticket, general travel authority or (where relevant) deferred fare authority, 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 also, if he started so to travel when he transferred from a train service provided by a third person, the time when and the station where he started to travel on that 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 general travel authority, 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.

*Amount of penalty fare*

- 5 (1) Subject to sub-paragraph (2) below, a penalty fare shall be—
- (a) in respect of any journey on a local service, £5;
- (b) in respect of any train journey, £10;

and 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.

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- (2) The Mayor may by order prescribe that the amount of the penalty fare in either or both of the cases set out in sub-paragraph (1) above shall be different (whether higher or lower).
- (3) No order may be made by the Mayor under sub-paragraph (2) above unless he has consulted the Secretary of State and—
  - (a) such persons or bodies representative of local authorities,
  - (b) such persons or bodies representative of those who travel on local services and train services, and
  - (c) such other persons or bodies,as the Mayor considers it appropriate to consult.

*Documents in connection with penalty fare requirement*

- 6 (1) 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.
- (2) A receipt or notice given under sub-paragraph (1) above shall specify the passenger’s destination on the local service 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.
- (3) For the purposes of sub-paragraph (2) above, 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 provision*

- 7 (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.
- (2) A person failing to give his name and address when required to do so under sub-paragraph (1) above shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.
- (3) Transport for London shall secure that the requirements of sub-paragraph (4) or, as the case may be, (5) below with respect to warning notices are met in the case of a local service or train service in relation to travel on which the penalty fare provisions have effect.
- (4) In the case of a local service, a warning notice meeting the requirements of sub-paragraphs (6) and (7) below 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.
- (5) In the case of a train service, a warning notice meeting the requirements of sub-paragraphs (6) and (7) below 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

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- (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.
- (6) A warning notice posted pursuant to sub-paragraph (4) or (5) above shall (however expressed) indicate the circumstances (as provided in paragraph 3(1) or (2) above or, as the case may be, paragraph 4(1) above) in which persons travelling on the service in question may be liable to pay a penalty fare.
- (7) Every warning notice posted in pursuance of this paragraph shall state the amount of the relevant penalty fare.
- (8) 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.
- (9) A requirement by an authorised person shall be of no effect if, as respects that requirement, he fails to comply with sub-paragraph (8) above.

*Exclusion of double liability*

- 8 (1) Where a person has become liable under paragraph 3 or 4 above to pay a penalty fare in respect of any journey on a local service or any train journey (referred to below as “the relevant journey”), no proceedings may be brought against him for any of the offences specified in sub-paragraph (3) below before the end of the period mentioned in paragraph 5(1) above.
- (2) No proceedings may be brought after the end of that period if—
  - (a) before the end of that period, the person who has become liable to pay the penalty fare has paid it to the person providing the service on which the requirement to pay it was made; or
  - (b) an action has been brought against the person who has become liable to pay the penalty fare for the recovery of that fare.
- (3) The offences mentioned in sub-paragraph (1) above are—
  - (a) any offence under section 5(3)(a) or (b) of the Regulation of Railways Act 1889 (travelling without paying the correct fare with intent to avoid payment) arising from the relevant journey;
  - (b) any offence under byelaws made under section 67 of the Transport Act 1962 or paragraph 26 of Schedule 11 to this Act (byelaws for railways, etc.) involving a failure to obtain or produce a fare ticket or general travel authority for the relevant journey; and
  - (c) any offence under section 25(3) of the Public Passenger Vehicles Act 1981 of contravening or failing to comply with any provision of regulations for the time being having effect by virtue of that section by failing to pay the fare properly payable for the relevant journey or any part of it.
- (4) If proceedings are brought in contravention of this paragraph the person who has become liable to pay the penalty fare shall cease to be liable to pay it, but where that person has paid that fare, the person to whom it is paid shall be liable to repay to that person the amount of that fare.

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*Power to apply Schedule to certain other train services*

- 9 (1) This paragraph applies to any services for the carriage of passengers by railway which do not fall within paragraph 2(1) above but which—
- (a) are provided wholly within Greater London; and
  - (b) are services, or services of a class or description, designated in an order made by the Secretary of State as services in relation to which this paragraph is to apply;
- and in the following provisions of this paragraph any such services are referred to as “qualifying train services”.
- (2) The Mayor may, on the application of a person who provides qualifying train services, by order provide that this Schedule shall apply, from such date and with such modifications as may be specified in the order, to qualifying train services provided by that person.
- (3) The power to make an order under sub-paragraph (2) above includes power, exercisable in the same manner and subject to the same conditions and limitations, to revoke, amend or re-enact any such order.
- (4) Without prejudice to sub-paragraph (3) above, an order under sub-paragraph (2) above may specify circumstances in which the order shall cease to have effect before the expiry of any period specified in such an order.
- (5) An order under sub-paragraph (2) above, and any order revoking, amending or re-enacting such an order, may contain such incidental, supplemental, consequential or transitional provision as may appear to the Mayor to be necessary or expedient.
- (6) Where a person makes an application for an order under sub-paragraph (2) above, or for an order revoking, amending or re-enacting such an order, the Mayor may recover from that person payments in respect of the administrative costs reasonably incurred in connection with—
- (a) the application, and
  - (b) if an order is made as a result of the application, the making of the order, not exceeding £5,000 in the aggregate.
- (7) The Mayor shall secure that any order under sub-paragraph (2) above, and any order revoking, amending or re-enacting any such order, is printed and published.
- (8) A fee may be charged for the sale of an order printed and published under sub-paragraph (7) above.
- (9) Where any services become qualifying services by virtue of an order under sub-paragraph (1)(b) above, any order which—
- (a) is contained in a statutory instrument made by the Secretary of State,
  - (b) makes provision for or in connection with the imposition of penalty fares on passengers travelling on those services, and
  - (c) is in force immediately before this paragraph begins to apply to the services by virtue of the order under sub-paragraph (1)(b) above,
- may, so far as relating to those services, be revoked under this paragraph as if it were an order under sub-paragraph (2) above.
- (10) This paragraph applies in relation to a tramway as it applies in relation to a railway.

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- (11) In this paragraph “railway” and “tramway” have the meaning given by section 67(1) of the Transport and Works Act 1992.

*Appeals*

- 10 (1) If requested to do so by the Mayor, the Secretary of State shall by regulations make provision enabling a person required to pay a penalty fare to appeal against that requirement.
- (2) Regulations under this paragraph may include provision—
- (a) for appeals to be heard and determined by independent adjudicators,
  - (b) for the appointment of such adjudicators,
  - (c) for requiring Transport for London to reconsider, before an appeal is determined, whether the appellant should be required to pay the penalty fare, and
  - (d) for the adjudicator’s directions in relation to an appeal to be binding upon Transport for London and the appellant.

*Repeal of London Regional Transport (Penalty Fares) Act 1992*

- 11 The London Regional Transport (Penalty Fares) Act 1992 shall cease to have effect.