

SCHEDULES

FIRST SCHEDULE

Sections 2, 12.

POWERS AND DUTIES OF LICENSING AUTHORITY FOR PUBLIC SERVICE VEHICLES WITH RESPECT TO CHARGES ON INDEPENDENT TRAMWAYS, TROLLEY VEHICLES AND RAILWAYS OF THE NATURE OF A TRAMWAY

PART I

Services to which Schedule applies

- 1 This Schedule shall apply to services by tramway, trolley vehicles or a railway of the nature of a tramway provided by an independent undertaking, being services for the provision of which, if the vehicles used had been public service vehicles, a road service licence would have been necessary:

Provided that—

- (a) this Schedule shall not apply to services by a tramway laid wholly along a pier ;
- (b) for the purposes of this Schedule, subsection (1) of section twenty-five of the Road Traffic Act, 1934 (which restricts the cases in which a vehicle may be used otherwise than under a road service licence) shall be deemed to have effect as if in paragraph (a) thereof for any reference to the holder of the public service vehicle licence in respect of the vehicle there were substituted a reference to the undertakers, and as if paragraphs (f) and (g) thereof were omitted.

PART II

Application of Part II

- 2 This Part of this Schedule shall apply to all services to which this Schedule applies except those to which Part III of this Schedule applies.

Regular services

- 3 (1) The undertakers may at any time apply to a licensing authority for public service vehicles for an authorisation to make, and a licensing authority for public service vehicles may at any time serve notice on the undertakers of the intention of the authority to direct the making of, such variations in all or any of the fares for the time being charged on all or any of the regular services to which this Part of this Schedule applies provided by the undertaking on any route or part of a route lying within the traffic area of that authority as may be specified in the application or, as the case may be, notice.

- (2) For the purposes of this Part of this Schedule the determination of the fares to be charged for any new or altered regular service to which this Part of this Schedule applies on any route or part of a route lying within the traffic area of the authority shall be deemed to be such a variation as aforesaid.
- 4 Any such application or notice shall be published and, after considering any objections or other representations which they may receive with respect to the proposals made therein, the licensing authority shall either—
- (a) direct that the fares for the time being charged as aforesaid shall continue to be charged without any variation ; or
 - (b) authorise or direct, by means of fixing fares or maximum or minimum fares for the routes or stages affected, such variation in all or any of the said fares, whether or not affected by the application or notice, as the authority may consider reasonable or expedient in all the circumstances:
- Provided that the licensing authority shall not authorise or direct an increase in any fare—
- (a) unless an increase in that fare was proposed in that application or notice ; or
 - (b) in excess of the increase so proposed.
- 5 (1) In the case of each licensing authority and each undertaking, on the first occasion on which any fares charged by the undertaking on a regular service to which this Part of this Schedule applies fall to be considered by the licensing authority, whether on an application by the undertakers or on a notice by the authority, the undertakers shall submit to the authority fare-tables showing—
- (a) all fares for the time being charged ; and
 - (b) all maximum or minimum fares for the time being chargeable,
- on each of the regular services to which this Part of this Schedule applies provided by that undertaking within the traffic area of that authority, whether or not affected by the variations proposed in the application or notice, and the authority shall approve fare-tables for all the regular services aforesaid incorporating the variations, if any, provided for by the authorisation or direction given in relation to the application or notice.
- (2) On any subsequent application or notice under this Part of this Schedule with respect to any regular service provided by that undertaking, the licensing authority may, if they think fit, require the submission of, and approve, fare-tables as aforesaid.
- (3) Where on any application or notice under this Part of this Schedule fare-tables have been approved for an undertaking by a licensing authority under the foregoing provisions of this paragraph, those fare-tables shall come into effect on the same date as the authorisation or direction given in relation to that application or notice ; and the fares thereafter charged on any regular services to which this Part of this Schedule applies provided by that undertaking within the traffic area of that authority shall, subject to any variation subsequently made therein under this Part of this Schedule, be those provided for by the fare-tables last so approved.
- 6 (1) A licensing authority may serve a notice under paragraph 3 of this Schedule with respect to charges for the carriage by an undertaking on any regular service to which this Part of this Schedule applies of all or any of the following items (where and to the extent that such carriage is authorised), that is to say, dogs or other animals, luggage, parcels, or other goods or articles, as if those charges were fares.

- (2) Where such a notice has been served with respect to the charges made by any undertaking for the carriage of any of the items aforesaid, this Part of this Schedule shall thereafter have effect in relation to that undertaking as if the expression "fares" included charges for the carriage of that item.

Occasional services

- 7 (1) If the undertakers propose to provide on any route an occasional service to which this Part of this Schedule applies at fares different from those charged on any regular service provided by the undertaking on that route or any part thereof, the undertakers shall apply to the licensing authority for public service vehicles within whose area that route or part of a route lies for the authorisation of the proposed fares.
- (2) Any such application shall be published and, after considering any objections or other representations which they may receive with respect to the proposals made therein, the licensing authority shall either authorise the proposed fares or direct the charging of such other fares as they may think fit, and, subject to paragraph 16 of this Schedule, fares on any service to which the application relates shall be charged accordingly.
- 8 Without prejudice to sub-paragraph (2) of paragraph 6 of this Schedule, where in the case of any undertaking no notice has been served under that paragraph with respect to that undertaking but the undertakers propose to provide an occasional service to which this Part of this Schedule applies on which the terms for the carriage of dogs or other animals, luggage, parcels, or other goods or articles are to be different from those applicable to any regular service provided by the undertaking on the same route or the same part of a route, this Part of this Schedule shall have effect in relation to that service as if the expression "fares" included charges for such carriage.
- 9 Save as may be authorised or directed under paragraph 7 of this Schedule, the fares charged on any occasional service to which this Part of this Schedule applies shall not differ from those charged on any regular service on the same route or the same part of a route.

PART III

Special provisions with respect to certain services

- 10 This Part of this Schedule shall apply to such of the services to which this Schedule applies as are provided by an independent undertaking wholly or partly within an area (in this Part of this Schedule referred to as "the reserved area") within which any local Act restricts the provision by any person other than the undertakers of services by public service vehicles on which a passenger can be both taken up and set down within the reserved area on the same journey.
- 11 Where part of the route of a service to which this Part of this Schedule applies lies outside the reserved area, then—
- (a) any local authority within whose area any part of that route outside the reserved area lies ; and
 - (b) any person (other than the undertakers) providing transport facilities along or near that route or any part thereof,

may apply to the licensing authority for public service vehicles for a review by that authority of the fares for the time being charged on that service.

12 Any such application shall be published and notice thereof shall be served on the undertakers.

13 On any such review, if, after considering any objections or other representations which they may receive with respect to the application, and having regard to—

- (a) the fares charged by the undertakers on any service on a route lying wholly within the reserved area, being a route along or near that of the service to which the application relates which appears to the licensing authority to be fairly comparable; and

- (b) the fares and expenditure of the undertaking as a whole,

the licensing authority are satisfied that the fares on the service in question are unreasonable or result in unfair competition, the licensing authority shall direct, by means of fixing fares or maximum or minimum fares for the route or stages affected, such variations in the fares for that service as they think reasonable or expedient in all the circumstances, or, if the licensing authority are not so satisfied, they shall dismiss the application.

14 Where a direction of the licensing authority under this Part of this Schedule has come into effect with respect to any service to which this Part of this Schedule applies, then—

- (a) the undertakers shall comply with that direction and shall not vary the fares provided for by that direction before the expiration of a period of six months from the date when that direction comes into effect; and

- (b) the licensing authority shall not consider any further application with respect to that service made before the expiration of the said period ;

and where the licensing authority have dismissed any application under this Part of this Schedule, they shall not consider any further application thereunder with respect to the same service made before the expiration of a period of six months from the date of their decision.

15 In this Part of this Schedule, the expression " fares " includes charges for the carriage of dogs or other animals, luggage, parcels, or other goods or articles, and the expression " local authority " means the council of any county, county borough, non-county borough, urban district or rural district or, in Scotland, a county or town council.

PART IV

Appeals and general

16 (1) Subject to the next following sub-paragraph, any authorisation or direction given under this Schedule shall come into effect on such date as may be specified therein.

(2) Where, in the case of—

- (a) an authorisation or direction under Part II of this Schedule varying any fares charged on a regular service ; or
- (b) a direction under the said Part II for the charging on an occasional service of fares other than those proposed by the undertakers ; or
- (c) a direction under Part III of this Schedule,

the undertakers give notice in writing to the licensing authority before the date specified as aforesaid or before the date of the expiration of the period within which an appeal may be made against that authorisation or direction under the next following paragraph, whichever date is the earlier, that they desire this sub-paragraph to apply, the authorisation or direction shall not come into effect before the expiration of the said period or, if an appeal is so made, before that appeal has been disposed of.

- 17 (1) Any undertakers with respect to whose undertaking any authorisation or direction has been given under Part II of this Schedule and, where any such authorisation or direction has been given varying any fares charged on any regular service, any person who—
- (a) being a local authority in whose area any of the routes or any part of any of the routes affected by the authorisation or direction is situated ; or
 - (b) being a person providing transport facilities along or near to any of the said routes or any part of any of the said routes,
- has made to the licensing authority objections with respect to all or any of the proposals contained in the application or notice in relation to which that authorisation or direction has been given, may appeal against that authorisation or direction to the Minister.
- (2) Where an application has been made under Part III of this Schedule, an appeal to the Minister may be made—
- (a) by the undertakers against any direction given on that application; or
 - (b) by the applicant against any such direction or against the dismissal of the application.
- (3) On any appeal under this paragraph the Minister may make such order as he thinks fit and any such order shall be binding on the licensing authority.
- (4) Section forty-seven of the Road and Rail Traffic Act, 1933 (which relates to inquiries by the Minister) shall have effect for the purposes of appeals under this paragraph as it has effect for the purposes of that Act.
- (5) In this paragraph, the expression " local authority " means the council of any county, county borough, non-county borough, urban district or rural district or, in Scotland, a county or town council.
- 18 The undertakers by whom any application is made or on whom any notice is served under this Schedule shall give to the licensing authority all such information and assistance as the authority may require to enable them to determine what authorisation or direction to give under this Schedule.
- 19 Where on any application or notice under Part II of this Schedule any question arises as to whether any particular service is for the purposes of that Part of this Schedule a regular service or an occasional service, that question shall be determined by the licensing authority, and their decision shall be final.
- 20 (1) The Minister may make regulations—
- (a) as to the procedure, and the determination of questions arising, in connection with applications or notices under this Schedule ;
 - (b) as to the persons on whom such notices are to be served ;
 - (c) as to the manner in which such applications and notices are to be published and objections or other representations with respect thereto are to be made ;

- (d) providing for the publication of any decision of a licensing authority under this Schedule ;
 - (e) prescribing the time within which and the manner in which appeals may be made under paragraph 17 of this Schedule ;
 - (f) authorising the charging, and prescribing the amount, of fees in respect of any functions of a licensing authority under this Schedule;
 - (g) as to any forms to be used for the purposes of. this Schedule :
 - (h) generally for the purpose of carrying this Schedule into effect;
- and different regulations may be made for different circumstances.
- (2) Any such regulations shall be made by statutory instrument and be subject to annulment in pursuance of a resolution of either House of Parliament. 1
- 21 If, owing to special circumstances in the case of any particular application or notice under this Schedule, the licensing authority consider it necessary or expedient so to do, they may dispense in that case with compliance with, any procedural requirement of this Schedule or of any regulations made thereunder.
- 22 (1) A licensing authority may, if they think fit, hold public sittings for the purpose of the performance of any of their functions under this Schedule at any place in their traffic area which appears to them convenient.
- (2) At any public sitting, not less than two of the persons constituting the authority shall be present, and if when only two of those persons are present there is a difference of opinion between them with respect to the decision to be made on any application or notice under this Schedule, the matter shall be re-heard and determined by all those persons.
- 23 Subject to the provisions of this Schedule, a licensing authority shall in performing their functions under this Schedule act under the general directions of the Minister.
- 24 A licensing authority shall include in the annual report made by them to the Minister under section sixty-five of the Road Traffic Act, 1930, a report on their proceedings under this Schedule containing particulars with respect to such matters as the Minister may direct.