

2003 No. 1614

**LONDON GOVERNMENT
TRANSPORT**

The Croydon Tramlink (Penalty Fares) Order 2003

<i>Made</i> - - - - -	<i>20th June 2003</i>
<i>Laid before Parliament</i>	<i>23rd June 2003</i>
<i>Coming into force</i> - -	<i>15th July 2003</i>

The Secretary of State for Transport, in exercise of the powers conferred by sections 405(2), 406(1) and 420(1) of the Greater London Authority Act 1999(a), and of all other powers enabling him in that behalf, hereby makes the following Order:

Citation and commencement

1. This Order may be cited as the Croydon Tramlink (Penalty Fares) Order 2003 and shall come into force on 15th July 2003.

Application of Schedule 17 to the Greater London Authority Act 1999 to Tramlink services

2.—(1) Schedule 17 to the Greater London Authority Act 1999 (penalty fares) shall apply to services for the carriage of passengers by tram on Tramlink, but with the modifications in Schedule 1 to this Order.

(2) Those modifications shall have effect as if they were modifications specified in an order made under paragraph 9(2) of Schedule 17 to the Greater London Authority Act 1999(b).

(3) In this article—

- (a) “tram” means any locomotive or other vehicle which is carried on flanged wheels and is constructed or adapted to travel on Tramlink and includes a vehicle used in the provision of a service for the carriage of passengers by road in place of a service by tram which has been temporarily interrupted or suspended; and
- (b) “Tramlink” has the meaning given by section 2(1) of the Croydon Tramlink Act 1994(c).

Repeal and revocation

3. In consequence of the provision made by article 2—

- (a) the Croydon Tramlink (Penalty Fares) Order 2000(d) shall be revoked; and
- (b) section 45 of the Croydon Tramlink Act 1994 shall be repealed.

(a) 1999 c. 29.

(b) Services on Croydon Tramlink are designated as qualifying train services for the purposes of paragraph 9 of Schedule 17 to the Greater London Authority Act 1999 by the Greater London (Penalty Fares) (Croydon Tramlink Designation) Order 2000, S.I. 2000/1442.

(c) 1994 c. xi, amended by the Greater London Authority Act 1999 section 207. Certain functions conferred by the 1994 Act on London Regional Transport were transferred to Tramtrack Croydon Limited by the Croydon Tramlink (Transfer of Functions) Order 1996, S.I. 1996/2944 which, in accordance with section 207(11) of the Greater London Authority Act 1999, now has effect as if made by the Mayor of London.

(d) S.I. 2000/476.

Schedule 17 as modified

4. The text of Schedule 17 to the Greater London Authority Act 1999, as applied with modifications by this Order, is set out in Schedule 2 to this Order.

Signed by authority of the Secretary of State

20th June 2003

Tony McNulty
Parliamentary Under Secretary of State,
Department for Transport

MODIFICATIONS OF SCHEDULE 17 TO THE GREATER LONDON
AUTHORITY ACT 1999 IN ITS APPLICATION TO SERVICES ON TRAMLINK

1.—(1) Paragraph 1 shall be modified as follows.

(2) For sub-paragraph (1) there shall be substituted—

“(1) In this Schedule—

“authorised person” means, in relation to any purpose, a person authorised for that purpose by the person providing the service;

“the Company” means Tramtrack Croydon Limited;

“compulsory ticket area” means a place (other than a tram) which, in accordance with byelaws under section 46 of the Croydon Tramlink Act 1994, passengers are not permitted to enter without a fare ticket or general travel authority;

“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 tram service, 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 tram service (whether or not it also authorises him to make a journey on a service provided by a third person);

“penalty fare” means a penalty fare payable pursuant to paragraph 4 below;

“person providing the service” means the Company or any person appointed by the Company to operate the service;

“third person” means a person other than the person providing the service;

“temporary replacement service” means a service for the carriage of passengers by road in place of a service by tram which has been temporarily interrupted or suspended;

“tram” means any locomotive or other vehicle which is carried on flanged wheels and is constructed or adapted to travel on Tramlink and (except in the definition of temporary replacement service) includes a reference to any vehicle used in the provision of a temporary replacement service;

“tram service” means a service provided by the Company, or a person authorised by the Company to provide the service, for the carriage of passengers by tram on Tramlink and accordingly includes a reference to a temporary replacement service;

“Tramlink” has the meaning given by section 2(1) of the Croydon Tramlink Act 1994;

“tramstop” means any platform from time to time designated by the Company for the collection or setting down of passengers by trams along the routes of Tramlink and includes any such platform at Wimbledon Station or Elmers End Station.”

(3) In sub-paragraph (2)—

(a) for “train service to which this Schedule applies” there shall be substituted “tram service”; and

(b) for “train forming” there shall be substituted “tram forming”.

(4) For sub-paragraph (3) there shall be substituted—

“(3) A person at a tramstop is not taken to be travelling on a tram service unless he came there by alighting from a tram.”

(5) For sub-paragraph (5) there shall be substituted—

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

(a) a person who has entered a compulsory ticket area shall be taken to have made a journey for which the minimum fare is payable; and

(b) a person who is on a tram shall be taken to have made a journey ending at the next tramstop at which the tram is scheduled to stop.”

(6) In sub-paragraph (6) for “station” there shall be substituted “tramstop”.

(7) Sub-paragraphs (7) and (8) shall be omitted.

2.—(1) Paragraph 2 shall be modified as follows.

(2) In sub-paragraph (1), for “This Schedule applies to any local service or train service” there shall be substituted “For the purposes of paragraph 9(1) below, a service for the carriage of passengers by railway falls within this sub-paragraph if it is”.

(3) Sub-paragraphs (2) to (6) shall be omitted.

(4) The cross-heading accordingly becomes “The railway passenger services referred to in paragraph 9(1)”.

3. Paragraph 3 shall be omitted.

4.—(1) Paragraph 4 shall be modified as follows.

(2) For “train” in each place occurring there shall be substituted “tram” and for “station” in each place occurring there shall be substituted “tramstop”.

(3) In sub-paragraph (2) the words “Subject to sub-paragraph (3) below,” shall be omitted.

(4) Sub-paragraph (3) shall be omitted.

(5) In sub-paragraph (4)—

(a) for “sub-paragraphs (2) or (3)” there shall be substituted “sub-paragraph (2)”;

(b) in paragraph (a) the words “or (in the case of a station controlled by a third person) a deferred authority” shall be omitted; and

(c) in paragraph (b) for “person in the uniform of the person” there shall be substituted “constable in uniform or an authorised person”.

(6) Sub-paragraph (5) shall be omitted.

(7) In sub-paragraphs (6) and (7), in each place occurring, “, 3(b)” shall be omitted.

(8) In sub-paragraph (8)(a)—

(a) for “, general travel authority or (where relevant) deferred fare authority” there shall be substituted “or general travel authority”; and

(b) the words “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” shall be omitted.

(9) The cross heading accordingly becomes “Penalty fares on trams”.

5.—(1) Paragraph 5 shall be modified as follows.

(2) For sub-paragraphs (1) and (2) there shall be substituted—

“(1) Subject to sub-paragraph (2) below, a penalty fare in respect of any journey on a tram service shall be—

(a) £15 if it is paid before the end of the period of 21 days following the day on which the journey is completed, or

(b) £25 in any other case,

and shall be payable to the person providing the service.

(2) The Mayor may by order prescribe that, in relation to journeys on tram services, 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) In sub-paragraph (3) after “the Secretary of State” there shall be inserted “, the Company”.

6. In paragraph 6(2) for “local service or train” there shall be substituted “tram”.

7.—(1) Paragraph 7 shall be modified as follows.

(2) In sub-paragraph (3)—

(a) for “Transport for London” there shall be substituted “the person providing the service”;

(b) the words “(4) or, as the case may be,” shall be omitted; and

(c) for “local service or train service in relation to which the penalty fares provisions have effect” there shall be substituted “tram service”.

(3) Sub-paragraph (4) shall be omitted.

(4) In sub-paragraph (5)—

(a) for “train” in both places occurring there shall be substituted “tram”; and

(b) for “station” there shall be substituted “tramstop”.

(5) In sub-paragraph (6)—

(a) the words “(4) or” shall be omitted; and

(b) the words “paragraph 3(1) or (2) above or, as the case may be,” shall be omitted.

8. In paragraph 8(1)—

(a) the words “3 or” shall be omitted;

(b) for “a local service or any train journey” there shall be substituted “a tram service”; and

(c) for “paragraph 5(1)” there shall be substituted “paragraph 5(1)(a)”.

9. In paragraph 10(2) for “Transport for London” in paragraphs (c) and (d) there shall in each case be substituted “the person providing the service”.

SCHEDULE 2

Article 4

SCHEDULE 17 TO THE GREATER LONDON AUTHORITY ACT 1999 AS MODIFIED IN ITS APPLICATION TO SERVICES ON TRAMLINK BY THE CROYDON TRAMLINK (PENALTY FARES) ORDER 2003

SCHEDULE 17

PENALTY FARES

Introductory

1.—(1) In this Schedule—

“authorised person” means, in relation to any purpose, a person authorised for that purpose by the person providing the service;

“the Company” means Tramtrack Croydon Limited;

“compulsory ticket area” means a place (other than a tram) which, in accordance with byelaws under section 46 of the Croydon Tramlink Act 1994, passengers are not permitted to enter without a fare ticket or general travel authority;

“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 tram service, 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 tram service (whether or not it also authorises him to make a journey on a service provided by a third person);

“penalty fare” means a penalty fare payable pursuant to paragraph 4 below;

“person providing the service” means the Company or any person appointed by the Company to operate the service;

“third person” means a person other than the person providing the service;

“temporary replacement service” means a service for the carriage of passengers by road in place of a service by tram which has been temporarily interrupted or suspended;

“tram” means any locomotive or other vehicle which is carried on flanged wheels and is constructed or adapted to travel on Tramlink and (except in the definition of temporary replacement service) includes a reference to any vehicle used in the provision of a temporary replacement service;

“tram service” means a service provided by the Company, or a person authorised by the Company to provide the service, for the carriage of passengers by tram on Tramlink and accordingly includes a reference to a temporary replacement service;

“Tramlink” has the meaning given by section 2(1) of the Croydon Tramlink Act 1994;

“tramstop” means any platform from time to time designated by the Company for the collection or setting down of passengers by trams along the routes of Tramlink and includes any such platform at Wimbledon Station or Elmers End Station.

(2) Subject to sub-paragraph (3) below, a person is travelling on a tram service at any time when he is on a tram forming part of that service or is in a compulsory ticket area.

(3) A person at a tramstop is not taken to be travelling on a tram service unless he came there by alighting from a tram.

(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 shall be taken to have made a journey for which the minimum fare is payable; and

(b) a person who is on a tram shall be taken to have made a journey ending at the next tramstop at which the tram is scheduled to stop.

(6) In sub-paragraph (5) above “minimum fare” means the minimum fare for which a journey from the tramstop in question could validly be made by the person in question.

The railway passenger services referred to in paragraph 9(1)

2.—(1) For the purposes of paragraph 9(1) below, a service for the carriage of passengers by railway falls within this sub-paragraph if it is 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.

(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 trams

4.—(1) Subject to sub-paragraph (2) below, if a person travelling on a tram 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) A person shall not be liable to pay a penalty fare under this paragraph if at the time when and the tramstop where he started to travel on the tram service there were no facilities available for the sale of the necessary fare ticket for his journey.

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

- (a) there was displayed a notice (however expressed) indicating that it was permissible for passengers beginning a journey at that tramstop at that time to do so without having a fare ticket or a general travel authority; or
- (b) a constable in uniform or an authorised person controlling that tramstop gave permission to the same effect.

(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) 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) 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 or general travel 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 tramstop where he started to travel on the tram 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 in respect of any journey on a tram service shall be—

- (a) £15 if it is paid before the end of the period of 21 days following the day on which the journey is completed, or
- (b) £25 in any other case,

and shall be payable to the person providing the service.

(2) The Mayor may by order prescribe that, in relation to journeys on tram services, 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, the Company 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 tram 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) The person providing the service shall secure that the requirements of sub-paragraph (5) below with respect to warning notices are met in the case of a tram service.

(5) In the case of a tram service, a warning notice meeting the requirements of sub-paragraphs (6) and (7) below shall be posted—

- (a) at every tramstop 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 tram 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 (5) above shall (however expressed) indicate the circumstances (as provided in 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 4 above to pay a penalty fare in respect of any journey on a tram service (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)(a) 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.

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.

(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.

EXPLANATORY NOTE

(This note is not part of the Order)

The London Regional Transport (Penalty Fares) Act 1992, which provides for a system of penalty fares on the services of London Regional Transport, was applied with modifications to the Croydon Tramlink by the Croydon Tramlink (Penalty Fares) Order 2000 (S.I. 2000/476) (“the 2000 Order”). Schedule 17 to the Greater London Authority Act 1999 (“Schedule 17”), however, provides for the repeal of the 1992 Act and its replacement by similar provisions applying to the services of Transport for London.

Article 2(1) applies Schedule 17 to tram services provided on the Croydon Tramlink subject to the modifications in Schedule 1. The modifications are, by virtue of article 2(2) to be treated as if they were included in an Order made by the Mayor of London under paragraph 9 of Schedule 17. In consequence of article 2, Article 3 revokes the 2000 Order and repeals section 45 of the Croydon Tramlink Act 1994 under which it was made.

Article 4 introduces Schedule 2 which sets out the text of Schedule 17 as modified by this Order in relation to the Tramlink.

2003 No. 1614

**LONDON GOVERNMENT
TRANSPORT**

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