
STATUTORY INSTRUMENTS

2009 No. 1300

The Nottingham Express Transit System Order 2009

PART 5

PENALTY FARES

Interpretation of Part 5

59.—(1) In this Part unless the context otherwise requires—

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

“fare ticket” means a ticket authorising the person in respect of whom it is issued to travel on a tramcar;

“general travel authority” means any permit, other than a fare ticket, authorising the person in respect of whom it is issued to travel on a tramcar;

“passenger” means a person travelling on a tramcar;

“penalty fare” means a penalty fare payable pursuant to article 61 (penalty fares);

“the penalty fare provisions” means articles 61 (penalty fares) to 66 (exclusion of double liability); and

“tramway stop” means a station or other regular stopping place on the authorised tramway at which passengers may get on or off tramcars.

(2) Any reference in this Part to a passenger 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 document produced by the passenger at the same time, is valid for the journey made by the passenger.

(3) For the purposes of paragraph (2), a passenger who is on a tramcar shall be taken to have made a journey ending at the next scheduled tramway stop.

Operation of Part 5

60.—(1) The penalty fare provisions shall have effect in relation to travel on any tramcar on and after such day as the Secretary of State may specify.

(2) On the application of the promoter, or if the Secretary of State considers on reasonable grounds that the promoter is not complying with the requirements of this Part, the Secretary of State may provide that the penalty fare provisions shall cease to have effect on and after such day as the Secretary of State may specify.

(3) Paragraph (2) does not affect the power of the Secretary of State to specify further days on and after which the penalty fare provisions shall have effect.

(4) Any day specified by the Secretary of State for the purposes of paragraph (1) or (2) shall be published in a newspaper circulating in the promoter’s area not later than one week before that date.

(5) No day may be specified under paragraph (1) except at the request of the promoter.

Penalty fares

61.—(1) If a passenger, on being required to do so by an authorised person, fails to produce a fare ticket or a general travel authority, the passenger shall be liable to pay a penalty fare if required to do so by an authorised person.

(2) A passenger shall not be liable to pay a penalty fare if, at any time when fare tickets are generally made available for sale at tramway stops or on tramcars, there were no facilities for the sale of the necessary ticket for the passenger's journey at the tramway stop where, and the time when, the passenger boarded the tramcar, or on the tramcar.

(3) Paragraphs (4) and (5) have effect with respect to the burden of proof, in any action for the recovery of a penalty fare under this article, so far as concerns the question whether the facts of the case fall within paragraph (2).

(4) In any case where the passenger has provided the authorised person with a relevant statement in due time it shall be for the authorised person to show that the facts of the case do not fall within paragraph (2), and in any other case it shall be for the passenger to show that the facts of the case fall within that provision.

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

- (a) a relevant statement is a statement giving an explanation of the passenger's failure to produce a fare ticket or general travel authority, together with any information as to the passenger's journey relevant to that explanation (including, in every case, an indication of the tramway stop where the passenger boarded the tramcar); and
- (b) a statement is provided in due time if it is provided when the passenger 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

62.—(1) Subject to paragraph (2), a penalty fare shall be £20 and shall be payable to the promoter before the expiration of the period of 21 days beginning with the day following the day on which the journey in respect of which it is payable is completed.

(2) The promoter may from time to time vary the amount of the penalty fare provided that—

- (a) the consent of the Secretary of State is obtained in writing to such a variation; and
- (b) a notice stating the amount of the penalty fare as so varied is published in a newspaper circulating in the promoter's area not later than 28 days before the day on which the penalty fare, as so varied, is to take effect.

Document to be issued in connection with penalty fare requirement

63.—(1) An authorised person who requires a passenger to pay a penalty fare shall give the passenger 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 paragraph (1) shall specify the passenger's destination on the tramcar on which the passenger is travelling when required to pay the penalty fare, and shall operate as an authority to the passenger to continue to that destination.

(3) For the purposes of paragraph (2), the passenger's destination shall (unless 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 the passenger identifying the passenger's destination, such destination as may be specified by the authorised person.

Notice of penalty fare provisions

64.—(1) It shall be the duty of the promoter to secure that a warning notice meeting the requirements of paragraph (2) is posted—

- (a) at every tramway stop, in such a position as to be readily visible to prospective passengers; and
- (b) in every tramcar, in such a position as to be readily visible to passengers travelling on that tramcar.

(2) A warning notice posted pursuant to paragraph (1) shall (however expressed) indicate the circumstances (as provided in article 61 (penalty fares)) in which passengers may be liable to pay a penalty fare and state the amount of the penalty fare.

Supplementary provisions

65.—(1) A passenger who is required to pay a penalty fare shall, unless the passenger 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 the passenger to do so, the name and address of the passenger; and any passenger failing to do so shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(2) Where an authorised person requires any passenger to do anything pursuant to any provision of this Order the authorised person shall, if so requested by the passenger concerned, produce to that passenger a duly authenticated document showing evidence of the authorised person's authority; and a requirement by an authorised person shall be of no effect if, as respects that requirement, the authorised person fails to comply with this paragraph.

Exclusion of double liability

66.—(1) Where a passenger has become liable to pay a penalty fare in respect of any journey (referred to below as "the relevant journey"), no proceedings may be brought against that passenger for either of the offences specified in paragraph (2) before the end of the period mentioned in article 62(1) (amount of penalty fare); and no such proceedings may be brought after the end of that period if—

- (a) the passenger has paid the penalty fare to the promoter before the end of that period; or
 - (b) an action has been brought against the passenger for the recovery of that fare.
- (2) The offences mentioned in paragraph (1) are—
- (a) any offence under byelaws made under article 53 (power to make byelaws) involving a failure to obtain or produce a fare ticket or general travel authority for the relevant journey; and
 - (b) any offence under section 25(3) of the Public Passenger Vehicles Act 1981(1) 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.

(3) If proceedings are brought against any such passenger for any such offence the liability to pay the penalty fare shall cease and, if it has been paid, the promoter shall be liable to repay to the passenger an amount equal to the amount of that fare.

(1) 1981 c. 14.

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