

Executive Note

The Public Service Vehicles (Conduct of Drivers, Inspectors, Conductors and Passengers) Amendment (Scotland) Regulations 2006 SSI/2006/613

The above instrument is laid in exercise of the powers conferred by sections 24(1) and 25(1) of the Public Passenger Vehicles Act 1981 and of all other powers enabling them in that behalf, and after consultation with representative organisations in accordance with section 61(2) of that Act. The instrument is subject to negative resolution procedure in the Scottish Parliament.

Policy Objectives

The purpose of this instrument is to remove an overlap between provisions on smoking on buses with new legislation on smoking which came into effect on 26 March 2006. This will be achieved by revoking the secondary legislation that currently applies to Conductors, Drivers, Inspectors and Passengers smoking on buses.

The current legislation is The Public Service Vehicles (Conduct of Drivers, Inspectors, Conductors and Passengers) Regulations 1990 which at regulation 5(3) state the requirement that drivers, inspectors and conductors shall not smoke in or on a vehicle under certain conditions. The current legislation also states at regulation 6(1)(d) that passengers shall not smoke on a bus where there is a notice prohibiting them from doing so unless the vehicle has been hired and permission has been given to the contrary. The above instrument repeals these provisions.

The new legislation is the Prohibition of Smoking in Certain Premises (Scotland) Regulations 2006 (SSI 2006/90) which came into force on 26 March 2006. Regulation 3 and Schedule 1 of these regulations prescribe a public transportation vehicle as a class of premises which are no smoking premises for the purposes of Part 1 of the Smoking, Health and Social Care (Scotland) Act 2005.

Bus operators, represented by the Confederation of Passenger Transport (CPT), have worked with the Royal Environmental Health Institute of Scotland, who are responsible for enforcing the new legislation on Smoking, to agree the requirements that operators need to satisfy under the new legislation. A protocol has now been agreed and sets out bus operators responsibilities and how they can satisfy them. This means that it is now timely for the overlapping legislation to be repealed.

Consultation

The Confederation of Passenger Transport (CPT – a trade organisation whose members include bus operators which run 90% of the bus services in Scotland) were consulted on the proposed changes. They were satisfied with the proposal to revoke the regulations in so far as they relate to smoking by Conductors, Drivers and Inspectors. Revoking the regulations in so far as they relate to smoking by passengers will result in the loss of the current power to remove passengers who do not observe a no smoking policy on a bus. Removal of this power should have no implications in practice as CPT have now agreed a Protocol with the Royal Environmental Health Institute of Scotland regarding how operators can satisfy the Prohibition of Smoking in Certain Premises (Scotland) Regulations 2006.

Financial Effects

The proposed amendment to The Public Service Vehicles (Conduct of Drivers, Inspectors, Conductors and Passengers) Regulations 1990 can be carried out at minimal cost and has no financial effect.

Scottish Executive
December 2006