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STATUTORY INSTRUMENTS

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**1994 No. 371**

**TRANSPORT AND WORKS**

**TRANSPORT**

**The Docklands Light Railway (Penalty Fares  
and Provision of Police Services) Order 1994**

*Made - - - - 14th February 1994*

*Coming in to force*

*Articles 1, 2, 8 and 9 25th February 1994*

*Remainder 3rd April 1994*

The Secretary of State for Transport, in exercise of the powers conferred by section 1 of the Transport and Works Act 1992<sup>(1)</sup> and on the application of Docklands Light Railway Limited, hereby makes the following Order:

**Citation and commencement**

1.—(1) This Order may be cited as the Docklands Light Railway (Penalty Fares and Provision of Police Services) Order 1994.

(2) Articles 1, 2, 8 and 9 shall come into force on 25th February 1994 and for all other purposes shall come into force on 3rd April 1994.

**Interpretation**

2.—(1) In this Order unless the context otherwise requires:—

“associated company” has the same meaning as in section 416 of the Income and Corporation Taxes Act 1988<sup>(2)</sup>;

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

“the British Transport Police Force” means the force established by a scheme under section 69 of the Transport Act 1962<sup>(3)</sup>;

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(1) 1992 c. 42.  
(2) 1988 c. 1.  
(3) 1962 c. 46.

“the Company” means Docklands Light Railway Limited and includes any subsidiary undertaking of the Company;

“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 train service to which this Order applies, or to make such 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 train service to which this Order applies (whether or not it also authorises him to travel on a service provided by a third person);

“the Group” means the Company, any holding company of the Company, the subsidiary undertakings of the Company and all associated companies of the holding company and each and every one of them as the context so admits;

“holding company” has the same meaning as in section 736 of the Companies Act 1985(4);

“paid area” means that part of a station which, under the byelaws of the Company, passengers are not permitted to enter without a fare ticket, general travel authority or platform ticket;

“penalty fare” means a penalty fare payable pursuant to article 3 of this Order;

“the penalty fare provisions” means articles 3 to 7 of this Order;

“person providing the service” means the operator of the service;

“platform ticket” means a ticket authorising a person to enter a paid area;

“the Railways Board” means the British Railways Board established under section 1 of the Transport Act 1962;

“station” means a station serving a train service to which this Order applies;

“subsidiary undertaking” has the same meaning as in section 258 of the Companies Act 1985(5);

“third person” means a person other than the Company;

“train” means any vehicle providing a train service; and

“train service” means a service for the carriage of passengers by railway and includes a service for the carriage of passengers by road where a service by railway has been temporarily interrupted or suspended.

(2) References to a train service are, unless the context otherwise requires, references to a train service provided by or on behalf of the Company or any part of such a service.

(a) (3) (a) Subject to sub-paragraph (b) below, a person is travelling on a train service to which this Order applies at any time when he is on a train forming part of that service or is in a paid area.

(b) A person at a station is not to be taken as travelling by reason only of being in a paid 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 Order 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

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(4) 1985 c. 6; section 736 was substituted by section 144 of the Companies Act 1989 (c. 40).

(5) Section 258 was inserted by section 21 of the Companies Act 1989.

or general travel authority produced by that person at the same time, is valid for the journey he has made.

- (a) (5) (a) For the purposes of paragraph (4) above—
  - (i) a person who has entered a paid 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
  - (ii) 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.
- (b) In sub-paragraph (a) 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.

(6) For the purposes of this Order a person is to be taken as transferring from a service provided by a third person to a service to which this Order applies only if, having travelled on a train forming part of the former service, he—

- (a) goes from that train into a paid area and finishes his journey at the station of which that area forms part; or
- (b) goes from that train into a paid area and from that area boards a train forming part of a service to which this Order applies;

and for the purposes of sub-paragraph (b) above, in a case where the transfer takes place at a station controlled by a third person, “paid area” means such area at that station as corresponds with a paid area within the meaning of this Order.

### **Liability for penalty fare**

3.—(1) Subject to 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.

- (a) (2) (a) A person (other than one falling within sub-paragraph (b) below) shall not be liable to pay a penalty fare under this article 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.
- (b) A person who started 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 article if—
  - (i) on being required to produce a fare ticket or general travel authority he produces a valid deferred fare authority issued by that third person; or
  - (ii) neither at the time when and the station where he started to travel on the train service provided by that third person nor at the station where the passenger transferred to the train service provided by the Company there were facilities for either the sale of the necessary fare ticket for his journey or the issue of deferred fare authorities.
- (c) Without prejudice to sub-paragraph (a) or (b) above, a person shall not be liable to pay a penalty fare under this article if at the time when and the station where his journey began—
  - (i) 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
  - (ii) a person in the uniform of the person controlling that station or, if different, a person in the uniform of an employee of the Company, gave permission to the same effect.

(3) Paragraphs (4) and (5) below 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 sub-paragraph (a), (b)(ii) or (c) of paragraph (2) above.

(4) 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 (a), (b)(ii) or (c) of paragraph (2) 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.

(5) For the purposes of paragraph (4) 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, general travel authority or deferred fare 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.

(6) In this article, “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 sub-paragraph (b) of paragraph (2) above 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.

### **Amount of penalty fare**

4.—(1) A penalty fare in respect of any train journey provided by the Company shall be £5 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.

(2) The Company may from time to time, vary the level of the penalty fare provided that—

- (a) the consent of the Secretary of State is obtained in writing to such variation; and
- (b) notices stating the new level of penalty fare are placed in prominent positions in all stations operated by the Company for at least 28 days before such new penalty fare shall become effective.

### **Document to be issued in connection with penalty fare requirement**

5.—(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 paragraph (1) above shall specify the passenger's destination on the train service on which he is travelling when required to pay the penalty fare, and shall operate as an authority to him to complete that part of his journey which takes place on a train service to which this Order applies.

(3) For the purposes of 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 provisions with respect to penalty fares**

6.—(1) A person who is required to pay a penalty fare shall, unless he pays immediately and either in cash, or, if an authorised person consents, by cheque or credit card, the amount of the penalty fare to that authorised person requiring such payment, give to that authorised person, if that person requires him to do so, his name and address; and any person 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) The Company shall comply with the requirements of paragraph (3) below with respect to warning notices in the case of a train service provided by it in relation to travel on which the penalty fare provisions have effect.

(3) In the case of a train service provided by the Company, a warning notice meeting the requirements of paragraphs (4) and (5) 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
- (b) in every vehicle comprised in every train used in providing that service including, in the case of a double-deck vehicle, on each deck of that vehicle, in such a position as to be readily visible to passengers travelling on the vehicle.

(4) A warning notice posted pursuant to paragraph (3) above shall (however expressed) indicate the circumstances (as provided in paragraph (1) of article 3 of this Order) in which persons travelling on the train service in question may be liable to pay a penalty fare.

(5) Every warning notice posted in pursuance of this article shall state the amount of the relevant penalty fare.

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

### **Exclusion of double liability**

7.—(1) Where a person has been liable under article 3 of this Order to pay a penalty fare in respect of any train journey (referred to below as “the relevant journey”), no proceedings may be brought against him for any of the offences specified in paragraph (2) below before the end of the period mentioned in paragraph (1) of article 4 of this Order; and no such proceedings may be brought after the end of that period if—

- (a) he has paid the penalty fare to the person providing the service on which the requirement to pay that fare was made before the end of that period; or
- (b) an action has been brought against him for the recovery of that fare.

(2) The offences mentioned in paragraph (1) above are—

- (a) any offence under section 5(3)(a) or (b) of the Regulation of Railways Act 1889(6) (travelling without paying the correct fare with intent to avoid payment) arising from the relevant journey; and
- (b) any offence under byelaws made under section 67 of the Transport Act 1962 (byelaws for railways, etc.) involving a failure to obtain or produce a fare ticket or general travel authority for the relevant journey.

(3) If proceedings are brought against any such person for any such offence, he shall cease to be liable to pay the penalty fare and, if he pays it, the person to whom it is paid shall be liable to repay to him the amount of that fare.

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(6) 1889 c. 59.

### Advance warning

8. For at least 28 days prior to the date on which the penalty fare provisions come into force, the Company shall place notices in a prominent place at all stations operated by the Company, stating that a penalty fare scheme will be implemented, the date upon which that scheme will take effect and the level of penalty fare.

### Policing of Docklands Light Railway

9.—(1) The Railways Board may make an agreement with the Company for making available to the Company or to any part of the Group for such a period, to such extent and on such terms as may be specified in the agreement, the services of the British Transport Police Force.

(2) Where such an agreement has been made, members of the British Transport Police Force may act in accordance with the terms of the agreement as constables in, on and in the vicinity of any premises of the Company which are occupied in connection with the provision of train services by the Company or, as the case may be, a member of the Group, including a train, notwithstanding the provisions of section 53(1) (as to appointment of constables) of the British Transport Commission Act 1949(7).

### Repeals

10. The following enactments are repealed to the extent specified below:—

- The London Docklands Railway Act 1984(8)—section 24;
- The London Docklands Railway Act 1985(9)—section 22;
- The London Docklands Railway (City Extension) Act 1986(10)—section 26;
- The London Regional Transport Act 1989(11)—section 15;
- The London Docklands Railway (Beckton) Act 1989(12)—section 27;
- The London Docklands Railway Act 1991(13)—section 16;
- The London Docklands Railway (Lewisham) Act 1993(14)—section 34.

Signed by authority of the Secretary of State for Transport

Department of Transport  
14th February 1994

*Steven Norris*  
Parliamentary Under Secretary of State,

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(7) 1949 c. xxix; section 53(1) was amended by section 70 of the Transport Act 1962 and by section 25 of the [British Railways Act 1978 \(c. xxi\)](#).

(8) 1984 c. iv.

(9) 1985 c. vi.

(10) 1986 c. xxiii.

(11) 1989 c. ii.

(12) 1989 c. ix.

(13) 1991 c. xxiii.

(14) 1993 c. vii.

## **EXPLANATORY NOTE**

*(This note is not part of the Order)*

This order empowers the charging of a penalty fare for persons using passenger transport services under the control of Docklands Light Railway Limited without a valid ticket for such use and the making of an agreement between Docklands Light Railway Limited and the British Railways Board for the making available of the services of the British Transport Police Force.