

**EXPLANATORY MEMORANDUM TO**  
**THE RIGHTS OF PASSENGERS IN BUS AND COACH TRANSPORT**  
**(EXEMPTIONS AND ENFORCEMENT) (AMENDMENT) REGULATIONS 2017**

**2017 No. 99**

**1. Introduction**

- 1.1 This explanatory memorandum has been prepared by the Department for Transport and is laid before Parliament by Command of Her Majesty.

**2. Purpose of the instrument**

- 2.1 This instrument renews for a further period of four years, expiring on 28th February 2021, exemptions available to EU Member States under Articles 2(4) and 2(5) of Regulation (EU) No 181/2011 of the European Parliament and of the Council of 16 February 2011 concerning the rights of passengers in bus and coach transport and amending Regulation (EC) No 2006/2004 (“Regulation 181/2011”).

**3. Matters of special interest to Parliament**

- 3.1 None.

*Other matters of interest to the House of Commons*

- 3.2 As this instrument is subject to negative resolution procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

**4. Legislative Context**

- 4.1 The exemptions described in this memorandum were first given effect within Great Britain by the Rights of Passengers in Bus and Coach Transport (Exemptions) Regulations 2013 (2013 No.228), which were revoked and re-enacted by the Rights of Passengers in Bus and Coach Transport (Exemptions and Enforcement) Regulations 2013 (2013 No.1865). The exemptions will expire on 28th February 2017 and may be renewed one more time.
- 4.2 Regulation 181/2011 sets out the responsibilities of industry participants, including carriers, tour operators and terminal managing bodies, in the case of delays, cancellations, accidents and other issues affecting passengers, including disabled passengers and passengers with reduced mobility. Similar legislation also exists for air, rail and maritime transport.
- 4.3 All provisions of Regulation 181/2011 apply to regular domestic and international passenger services of 250km (155 miles) or longer. Although Regulation 181/2011 is directly applicable, Member States have the ability to make use of a number of time-limited exemptions. The exemptions that are being renewed are:
- Article 2(4) - With the exception of certain mandatory provisions (see paragraph 4.4 below), Member States may, on a transparent and non-discriminatory basis, exempt domestic regular services for four years from 1st March 2013. This exemption may be renewed once.

- Article 2(5) - For a maximum period of four years from 1st March 2013, Member States may, on a transparent and non-discriminatory basis, exempt particular regular services because a significant part of such services, including at least one scheduled stop, is operated outside the EU. This exemption may also be renewed once.
- 4.4 A limited number of mandatory provisions of Regulation 181/2011 also apply to regular services shorter than 250km, with a very limited number of provisions also applying to occasional services (private hire and tours). No exemptions are available in these cases.
- 4.5 This instrument also provides that Chapter 4 of Part 1 (service contracts) of the Consumer Rights Act 2015 does not apply to anything that is governed by Regulation 181/2011. This is to ensure consistency between the application of Regulation 181/2011 and the 2015 Act.

## **5. Extent and Territorial Application**

- 5.1 The extent of this instrument is Great Britain.
- 5.2 The territorial application of this instrument is Great Britain.

## **6. European Convention on Human Rights**

- 6.1 Andrew Jones MP has made the following statement regarding Human Rights:
- “In my view the provisions of the Rights of Passengers in Bus and Coach Transport (Exemptions and Enforcement) (Amendment) Regulations 2017 are compatible with the Convention rights.”

## **7. Policy background**

### *What is being done and why*

- 7.1 One of the Government’s Guiding Principles when adopting any EU legislation is to ensure that UK businesses are not put at a competitive disadvantage compared with their European counterparts. In line with this guiding principle and to end so-called “gold-plating” it is Government policy not to go beyond the minimum requirements of European legislation, unless there are exceptional circumstances.
- 7.2 Therefore, it is Government policy to make full use, where possible, of any derogation (exemption) available to Member States which would reduce costs to business.
- 7.3 Accordingly, the exemptions described in this memorandum will be renewed for a further period of 4 years on 1st March 2017. This is the final time that they can be renewed.

## **8. Consultation outcome**

- 8.1 The Department ran a 12 week public consultation on the application of Regulation 181/2011 within Great Britain, including the proposed use of the exemptions described in this memorandum, from 18th July to 11th October 2012 (“the 2012 consultation”). The 2012 consultation included an Impact Assessment of likely costs and benefits.

- 8.2 The proposed use of the exemptions generated varying levels of agreement and disagreement. Approximately 20 responses were received in relation to each proposed exemption, with a roughly equal split between those in agreement and disagreement.
- 8.3 The Department has not consulted on renewal. The 2012 consultation contemplated the use of all available exemptions to the fullest extent permitted by Regulation 181/2011 and the landscape has largely remained the same since then. Accordingly, further consultation would not result in a different outcome.
- 8.4 The summary of responses to the 2012 consultation can be found at [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/86082/consultation-responses.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/86082/consultation-responses.pdf)

## **9. Guidance**

- 9.1 No guidance is necessary.

## **10. Impact**

- 10.1 The impact on business, charities or voluntary bodies of the deregulatory cost savings arising from renewal of the exemptions described in this memorandum falls below the threshold for producing an Impact Assessment. Renewal will continue to ensure that UK businesses are not put at a competitive disadvantage compared with their European counterparts.
- 10.2 There is no impact on the public sector.
- 10.3 An Impact Assessment has not been prepared for this instrument. A final Impact Assessment was prepared to accompany the Rights of Passengers in Bus and Coach Transport (Exemptions and Enforcement) Regulations 2013, which analysed the effects of the application of Regulation 181/2011, including the use of the exemptions described in this memorandum. That Impact Assessment can be found at [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/2735/impact-assessment.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/2735/impact-assessment.pdf)

## **11. Regulating small business**

- 11.1 The legislation applies to activities that are undertaken by small businesses.

## **12. Monitoring & review**

- 12.1 On 23 June, the EU referendum took place and the people of the United Kingdom voted to leave the European Union. Until exit negotiations are concluded, the UK remains a full member of the European Union and all the rights and obligations of EU membership remain in force. During this period the Government will continue to negotiate, implement and apply EU legislation. The outcome of these negotiations will determine what arrangements apply in relation to EU legislation in future once the UK has left the EU.
- 12.2 The Rights of Passengers in Bus and Coach Transport (Exemptions and Enforcement) Regulations 2013 will be reviewed by the Secretary of State by 1st March 2018.
- 12.3 When that review is conducted, it may be appropriate to amend the provisions in this instrument, together with those in the Rights of Passengers in Bus and Coach Transport (Exemptions and Enforcement) Regulations 2013.

### **13. Contact**

- 13.1 Chris Brown at the Department for Transport Telephone: 02079442617 or email: [Chris.Brown@dft.gsi.gov.uk](mailto:Chris.Brown@dft.gsi.gov.uk) can answer any queries regarding the instrument.