
STATUTORY INSTRUMENTS

2018 No. 21

**The Advanced Quality Partnership
Schemes (England) Regulations 2018**

PART 3

Review of Requirements as to Frequencies, Timings and Maximum Fares

Interpretation of Part 3

17. For the purposes of this Part—

- (a) a review is “completed” on the latest of the following dates—
 - (i) where an objection to the whole or any part of the outcome of the review has been submitted by virtue of regulation 26(2), the date on which that objection is finally determined,
 - (ii) the date on which the time for the submission of an objection under regulation 26(2) expires without any such objection having been made, or
 - (iii) the date on which an objection made in accordance with regulation 26(2) is abandoned or withdrawn,and “objection” includes a reference to any further referral to a traffic commissioner for a determination under regulation 12, as applied by regulation 26;
- (b) a request for a review of a requirement as to frequencies, timings or maximum fares is an “excepted request” if the lead authority is of the opinion that, since the relevant date, there has not been a change in market conditions which materially affects the ability of the operator making the request, acting in a competent and efficient manner, to secure an appropriate rate of return from continuing to operate existing services to the standard specified in the scheme;
- (c) “existing services” means, in relation to a particular operator, all local services registered under section 6 of the 1985 Act⁽¹⁾ in the name of that operator—
 - (i) which have one or more stopping places in the area to which the scheme relates; and
 - (ii) in respect of which, on the day on which the lead authority, without a request from a relevant participating operator, decides to start a review or, as the case may be, a request for a review is made by a relevant participating operator, the registration is extant;
- (d) “maximum fares requirement period” has the meaning given in regulation 18(2);
- (e) “participating operator” means, in relation to a particular scheme, an operator—

⁽¹⁾ 1985 c. 67. Section 6 of the Transport Act 1985 has been amended by paragraph 8 of Schedule 12 to the Railways Act 2005 (c. 14), paragraph 2(2) and (3) of Schedule 10 to the Education and Inspections Act 2006 (c. 40), sections 48(2), 49 and 65 of the Local Transport Act 2008, paragraph 2 of Schedule 1 to the Learner Travel (Wales) Measure 2008 (c. 02), S.I. 2010/1158, 2013/1644 and sections 11(2), (3) and (4), 12(2), 18(4) and 20(1) and (2) of, and paragraph 2 of Schedule 1 and paragraph 2 of Schedule 2 to, the Bus Services Act 2017. There are other amendments which are not relevant.

- (i) who has given a written undertaking to a traffic commissioner in accordance with section 113J(4) or (5) of the 2000 Act⁽²⁾ in respect of that scheme; and
 - (ii) who is, at the relevant time, operating local services in accordance with the terms of that undertaking;
- (f) “relevant date”, in relation to a requirement as to frequencies, timings or maximum fares means either—
- (i) the date on which the requirement or, where a requirement as to maximum fares is varied in accordance with a formula that formula, was first introduced; or
 - (ii) where there has been a previous review of that requirement or formula, the date on which that review was completed;
- (g) “relevant participating operator” means, in relation to any requirement as to frequencies, timings or maximum fares specified in a scheme, a participating operator to whom that requirement applies; and
- (h) “review notice” means a notice issued by a lead authority to start a review of requirements as to frequencies, timings or maximum fares under these Regulations.

Review of requirements as to maximum fares by lead authority

18.—(1) Except where regulation 21 applies, where an authority or authorities make a scheme which specifies a standard of services which includes requirements as to the maximum fares that may be charged for particular journeys, or for journeys of particular descriptions, that scheme must specify a maximum fares requirement period in accordance with paragraphs (2) and (3).

(2) A maximum fares requirement period is, as the case may be, the period—

- (a) between the date on which the requirements as to maximum fares first come into effect, and the latest date by which it is specified that the first review of those requirements must start; or
- (b) between the completion of a review of the requirements as to maximum fares, and the latest date by which it is specified that the next review of those requirements must start.

(3) The maximum fares requirement period must be no greater than 12 months.

(4) Prior to the end of the maximum fares requirement period the lead authority must start a review by issuing a written review notice to participating operators to whom the requirements as to maximum fares apply.

(5) The review notice must propose—

- (a) that requirements as to the maximum fares that may be charged for particular journeys, or for journeys of particular descriptions, contained in the scheme, or any part of the scheme, should cease to have effect;
- (b) that the existing maximum fares that may be charged for particular journeys, or for journeys of particular descriptions, should continue to have effect until the next review; or
- (c) revised requirements as to the maximum fares that may be charged for particular journeys, or for journeys of particular descriptions.

(6) Provided the lead authority issues a review notice prior to the end of the maximum fares requirement period, the existing requirements as to maximum fares contained in the scheme continue to have effect, unless paragraph (7) applies, until that authority makes a decision in accordance with regulation 25(2).

(2) 2000 c. 38. Section 113J was inserted by section 1 of the Bus Services Act 2017 (c. 21).

(7) Where the decision made in accordance with regulation 25(2) is that revised requirements as to maximum fares should be incorporated into the scheme, the existing requirements as to maximum fares contained in the scheme continue to have effect until such time as those revised requirements take effect in accordance with the timetable specified in accordance with regulation 25(5)(b).

(8) If the lead authority considers that either or both of the conditions in paragraph (9) are met in relation to some or all of the requirements as to the maximum fares that may be charged for particular journeys, or for journeys of particular descriptions, it may, at any time prior to the end of the maximum fares requirement period, start a review of those requirements by issuing a written review notice to relevant participating operators.

(9) The conditions are that—

- (a) there has, since the relevant date, been a change in market conditions which materially affects the ability of relevant participating operators, acting in a competent and efficient manner, to secure an appropriate rate of return from continuing to operate existing services in accordance with the requirements as to maximum fares specified in the scheme; or
- (b) the existing requirements are no longer consistent with the local transport policies of the lead authority or of the other authority or of any of the other authorities (as the case may be) by whom the scheme is made.

Failure of lead authority to review requirements as to maximum fares

19.—(1) If a lead authority fails to issue a review notice before the end of the maximum fares requirement period, any participating operator to whom requirements as to maximum fares apply may request a review of the requirements.

(2) An operator who wishes to make a request under paragraph (1) must make the request in writing and serve it on the lead authority within a period of 28 days beginning with the day on which the maximum fares requirement period ends.

(3) A copy of the request made under paragraph (1) must, at the same time as the request is served on the lead authority, be sent to a traffic commissioner.

(4) If, within a period of 14 days beginning with the day on which a request made in accordance with paragraph (1) is received, the lead authority has not issued a review notice, any requirements as to the maximum fares that may be charged for particular journeys, or for journeys of particular descriptions, cease to have effect.

(5) If a lead authority fails to issue a review notice before the end of the maximum fares requirement period, and no request is made under paragraph (1), any requirements as to the maximum fares that may be charged for particular journeys, or for journeys of particular descriptions, remain in force until, following a subsequent review—

- (a) revised requirements come into effect, or
- (b) the requirements cease to have effect.

Request for review of requirements as to maximum fares by operator

20.—(1) At any time prior to the end of the maximum fares requirement period a review of any requirements as to maximum fares may be requested by—

- (a) three or more relevant participating operators; or
- (b) at least 50% of relevant participating operators,

whichever is the lesser.

(2) Where a review is requested in accordance with paragraph (1) the operator or operators making the request must—

- (a) specify to which requirements as to maximum fares the request relates;
- (b) submit representations and evidence in support of the request; and
- (c) propose revised requirements as to the maximum fares that may be charged for particular journeys, or for journeys of particular descriptions.

(3) Except where the request for a review is an excepted request the lead authority must, within a period of 28 days beginning with the day on which a request submitted in accordance with paragraph (1) is received, issue a written review notice to relevant participating operators.

Review of formula for varying maximum fares by lead authority

21.—(1) This regulation applies where a scheme includes requirements as to the maximum fares that may be charged for particular journeys, or for journeys of particular descriptions, and that scheme includes a mechanism under which those maximum fares are varied at least every 12 months in accordance with a formula.

(2) If the lead authority considers that the conditions in paragraph (3) are met in relation to any or all of the requirements as to maximum fares that may be charged for particular journeys, or for journeys of a particular description, which are varied in accordance with a formula the lead authority may, at any time, start a review of that formula by issuing a written review notice to relevant participating operators in accordance with paragraph (4).

(3) The conditions are that—

- (a) there has, since the relevant date, been a change in market conditions which materially affects the ability of relevant participating operators, acting in a competent and efficient manner, to secure an appropriate rate of return from continuing to operate existing services in accordance with the requirements as to maximum fares specified in the scheme if the fares are varied in accordance with the formula; or
- (b) the effect of the formula is no longer consistent with the local transport policies of the lead authority or of the other authority or of any of the other authorities (as the case may be) by whom the scheme is made.

(4) The review notice must propose—

- (a) that the requirements as to the maximum fares that may be charged for particular journeys, or for journeys of particular descriptions, contained in the scheme, or any part of the scheme, should cease to have effect;
- (b) one or more revisions to the formula referred to in paragraph (1); or
- (c) replacing the formula with specified maximum fares that may be charged for particular journeys, or for journeys of particular descriptions.

Request for review of formula for varying maximum fares by operator

22.—(1) At any time during a period in which a formula described in regulation 21(1) applies, a review of the formula may be requested by—

- (a) three or more relevant participating operators; or
- (b) at least 50% of relevant participating operators,

whichever is the lesser.

(2) Where a review of the formula is requested in accordance with paragraph (1), the operator or operators making that request must—

- (a) specify to which part of the formula the request relates;
- (b) submit representations and evidence in support of the request; and

(c) propose a revised formula for the variation of maximum fares.

(3) Except where paragraph (4) applies the lead authority must, within a period of 28 days beginning with the day on which the request submitted in accordance with paragraph (1) is received, issue a written review notice to relevant participating operators.

(4) The obligation in paragraph (3) does not apply where the request submitted in accordance with paragraph (1)—

- (a) is received less than 12 months after the relevant date; and
- (b) is an excepted request.

Review of requirements as to frequencies or timings by lead authority

23.—(1) Where an authority or authorities make a scheme which specifies a standard of services which includes requirements as to the frequency or timing of services, the lead authority may, if it considers that either or both of the conditions in paragraph (2) are met in relation to any or all of those requirements, start a review of those requirements by issuing a written review notice to relevant participating operators.

(2) The conditions are that—

- (a) there has, since the relevant date, been a change in market conditions which materially affects the ability of relevant participating operators, acting in a competent and efficient manner, to secure an appropriate rate of return from continuing to operate existing services in accordance with the requirements as to the frequency or timing of services specified in the scheme; or
- (b) the existing requirements are no longer consistent with the local transport policies of the lead authority or of the other authority or of any of the other authorities (as the case may be) by whom the scheme is made.

(3) The review notice must propose either—

- (a) that the requirements as to the frequency or timing of services contained in the scheme, or any part of the scheme, should cease to have effect; or
- (b) that those requirements should be revised.

Request for review of requirements as to frequencies or timings by operator

24.—(1) At any time a review of any requirements as to the frequency or timing of services, may be requested by—

- (a) three or more relevant participating operators; or
- (b) at least 50% of relevant participating operators,

whichever is the lesser.

(2) Where a review is requested in accordance with paragraph (1) the operator or operators making that request must—

- (a) specify to which requirements as to the frequency or timing of services the request relates;
- (b) submit representations and evidence in support of the request; and
- (c) propose revised requirements as to frequencies and timings.

(3) Except where paragraph (4) applies the lead authority must, within a period of 28 days beginning with the day on which the request submitted in accordance with paragraph (1) is received, issue a written review notice to relevant participating operators.

(4) The obligation in paragraph (3) does not apply where the request submitted in accordance with paragraph (1)—

- (a) is received less than 12 months after the relevant date; and
- (b) is an excepted request.

Procedure for reviews

25.—(1) A review notice must specify the last date for the receipt of representations from relevant participating operators in response to that notice, and that date must be—

- (a) not less than 28 days; and
- (b) not more than 42 days,

after the date on which the review notice is issued.

(2) The lead authority must, within a period of 35 days beginning with the date specified in the review notice in accordance with paragraph (1), decide whether the requirements as to frequencies, timings, maximum fares or the formula used to vary maximum fares, should—

- (a) continue to have effect until the next review;
- (b) cease to have effect; or
- (c) be revised.

(3) The lead authority must, once a decision is made by virtue of paragraph (2), issue a written notice to all relevant participating operators.

(4) The lead authority may, with the written consent of all of the relevant participating operators, extend the period specified in paragraph (2).

(5) Where the decision referred to in paragraph (2) is that the requirements as to frequencies, timings, maximum fares or the formula used to vary maximum fares, should be revised, the notice issued under paragraph (3) must—

- (a) set out the details of the proposed revisions; and
- (b) subject to paragraph (6), set out the timetable for the proposed implementation of the revisions.

(6) The timetable specified in accordance with paragraph (5)(b) must—

- (a) provide for any revision of requirements as to maximum fares, or the formula used to vary maximum fares, to take effect as soon as reasonably practicable after the review is completed;
- (b) provide for any revision of requirements as to frequencies or timings to take effect as soon as reasonably practicable after the review is completed, taking into account the need for operators, as appropriate, to register a new local service, or vary or cancel the registration of an existing local service, in accordance with section 6 of the 1985 Act; and
- (c) take into account, where the lead authority is aware that a relevant participating operator is party to a voluntary partnership agreement, as defined in section 153(2) of the 2000 Act⁽³⁾ (competition test: functions and agreements relating to buses), or any other agreement with operators of local services, any conditions which that agreement might contain restricting the implementation of changes to requirements as to frequencies, timings or maximum fares to particular dates or times in the year.

⁽³⁾ Section 153 was substituted by section 46(1) of the Local Transport Act 2008 (c. 26) and was amended by paragraph 8(2) and (3) of Schedule 1, paragraph 5 of Schedule 3 and paragraph 5 of Schedule 4 to the Bus Services Act 2017 (c. 21).

Objections to the outcome of a review

26.—(1) Revised requirements as to frequencies, timings or maximum fares (including any revision to a formula described in regulation 21(1)) may come into effect only if there are no admissible objections to the revised requirements from relevant participating operators.

(2) Where, following receipt of the notice described in regulation 25(3), a relevant participating operator wishes to submit an objection to the whole or any part of the outcome of the review, the procedures in regulations 9 to 16 apply as if the reference to a notice given under section 113G(1) of the 2000 Act was a reference to a notice given under regulation 25(3).