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STATUTORY INSTRUMENTS

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**2018 No. 366**

**The Railways (Penalty Fares) Regulations 2018**

**PART 2**

**Penalty Fares**

**Requirement to produce a ticket**

4.—(1) A person travelling by, present on, or leaving a train must, if required to do so by or on behalf of an operator, produce a valid travel ticket.

(2) A person present in or leaving a compulsory ticket area, other than as a result of leaving a train that arrived at that compulsory ticket area, must if required to do so by or on behalf of an operator produce—

- (a) a valid travel ticket; or
- (b) a platform ticket where that person does not intend to board a train for the purpose of travel.

(3) In paragraph (1) the reference to “an operator” is to the operator of—

- (a) the train which the person in question is travelling by, present on or leaving;
- (b) the station, where the person in question is present in or leaving a station, having left a train arriving at that station; or
- (c) where the person in question is present in or leaving a compulsory ticket area, having left a train arriving at that compulsory ticket area—

- (i) the station of which the compulsory ticket area forms part; or
- (ii) any train that arrives at, or departs from, the compulsory ticket area.

(4) In paragraph (2) the reference to “an operator” is to the operator of—

- (a) the station of which the compulsory ticket area forms part; or
- (b) any train that arrives at, or departs from, the compulsory ticket area.

**Penalty fares**

5.—(1) Subject to regulations 6, 7 and 10, if a person fails to produce a platform ticket or a valid travel ticket in accordance with regulation 4, a collector may charge that person a penalty fare.

(2) Where a collector charges a penalty fare to a person under paragraph (1), the collector must provide that person with the following information in writing at the time the penalty fare is charged—

- (a) a statement that the person is being charged a penalty fare;
- (b) an explanation of why the person is being charged a penalty fare;
- (c) the identification number of the collector;
- (d) the name of the operator on whose behalf the penalty fare is charged;
- (e) the penalty fare number;

- (f) the amount of the penalty fare;
- (g) a statement that the person has the right to appeal against the penalty fare and an explanation of how the person can appeal;
- (h) a statement that the person must either pay, or appeal against, the penalty fare within 21 days beginning with the day following the day on which the penalty fare is charged;
- (i) an explanation of how the penalty fare may be paid; and
- (j) a statement that the person is entitled to a receipt if they pay the penalty fare.

(3) Where a person who is charged a penalty fare under paragraph (1) pays the penalty fare, or part of it, that person must immediately be issued with written confirmation that the penalty fare in question has been paid, or paid in part, as the case may be.

(4) Where a person described in paragraph (3) is not provided with written confirmation of payment, that person is entitled to an immediate refund of the amount paid, but that person remains liable for the full amount of the penalty fare in accordance with these Regulations.

(5) Subject to paragraph (6), a penalty fare charged under paragraph (1) to a person travelling by or present on a train authorises that person to—

- (a) travel by that train as far as, but no further than, the next station at which the train is due to make a scheduled call; and
- (b) exit the relevant station described in sub-paragraph (a), including exiting through any compulsory ticket area.

(6) Paragraph (5) does not apply where, at the time a penalty fare is charged under paragraph (1), the train is stationary at a station and there is sufficient opportunity for the person charged to leave the train at that station.

(7) A penalty fare charged under paragraph (1)—

- (a) in the circumstances described at paragraph (6); or
- (b) to a person who is leaving a train,

authorises that person to leave the train and exit the station, including exiting through any compulsory ticket area.

(8) Where a person present in or leaving a compulsory ticket area, other than as a result of leaving a train that arrived at that compulsory ticket area, is charged a penalty fare under paragraph (1), that penalty fare authorises that person to leave the compulsory ticket area and exit the station of which the compulsory ticket area forms part.

(9) Paragraphs (5) to (8) apply whether or not any payment has been made in respect of the penalty fare charged.

### **Penalty fares – train passenger exclusions**

6.—(1) Subject to paragraph (6), a person travelling by, present on, or leaving a train (in this regulation “the passenger”) must not be charged a penalty fare where either paragraph (2) or (3) applies.

(2) This paragraph applies if, at the time when, and at the station where, the passenger boarded the train—

- (a) there were no facilities in operation for the sale of a travel ticket for that passenger’s journey;
- (b) the requirements for the display of notices specified in regulation 8 were not satisfied;
- (c) a notice was displayed indicating that the passenger was, or persons generally were, permitted to travel by or be present on the train without having a travel ticket; or

- (d) the operator of the train or the station, or a person acting or purporting to act on behalf of the operator, indicated that the passenger was, or persons generally were, permitted to travel by or be present on the train without having a travel ticket.
- (3) This paragraph applies if—
  - (a) the passenger has travelled on a preceding train;
  - (b) at the time when, and at the station where, the passenger boarded the first of the preceding trains, any of sub-paragraphs (a) to (d) of paragraph (2) applied; and
  - (c) at the time when, and at the station where, the passenger changed from any preceding train—
    - (i) any of sub-paragraphs (a) to (d) of paragraph (2) applied; or
    - (ii) the passenger did not have sufficient time between leaving one train and boarding the next to purchase a travel ticket.
- (4) In paragraph (2)(a), there are no facilities in operation for the sale of a travel ticket if—
  - (a) the passenger is not able to use any means of payment the passenger has available at the relevant time; and
  - (b) the passenger would usually be able to purchase a travel ticket at the station in question at the relevant time of day using one of those means of payment.
- (5) A person must not be charged a penalty fare where the travel ticket which they have produced, in response to a request made under regulation 4(1), would be a valid travel ticket but for the fact that it is not valid for the class of travel used by that person if, at the time that person began using the relevant class of travel—
  - (a) a notice was displayed indicating that the person was, or persons generally were, permitted to use that class of travel without having a travel ticket valid for that class of travel; or
  - (b) the operator of the train, or a person acting or purporting to act on behalf of the operator of the train, indicated that the person was, or persons generally were, permitted to use that class of travel without having a travel ticket valid for that class of travel.
- (6) The passenger may, despite paragraph (2) or (3) applying, be charged a penalty fare where the passenger has, while travelling on the train or any preceding train, been invited by anybody acting on behalf of the operator of that train to obtain a travel ticket valid for the journey, train and class of travel used and has refused to do so.
- (7) A person who is present on a train, which is stationary in a station, must not be charged a penalty fare where—
  - (a) the person has not boarded the train for the purpose of travel;
  - (b) the person is present on the train for the sole purpose of providing assistance to another person who is also present on that train; and
  - (c) that other person has a valid travel ticket.

**Penalty fares – compulsory ticket area exclusions**

7.—(1) A person present in or leaving a compulsory ticket area, other than as a result of leaving a train that arrived at that compulsory ticket area, must not be charged a penalty fare where paragraph (2) or (3) applies.

(2) This paragraph applies if, at the time when, and at the station where, the person entered the compulsory ticket area—

- (a) there were no facilities in operation for the sale of—
  - (i) a travel ticket for the journey that person intends to make; or

- (ii) a platform ticket permitting that person to be present in that compulsory ticket area, where that person does not intend to board a train for the purpose of travel;
  - (b) the requirements for the display of notices specified in regulation 8 were not satisfied;
  - (c) a notice was displayed indicating that the person was, or persons generally were, permitted to be present in that compulsory ticket area without having a platform ticket or a valid travel ticket; or
  - (d) the operator of, or a person acting or purporting to act on behalf of the operator of—
    - (i) any train departing from that compulsory ticket area; or
    - (ii) the station of which the compulsory ticket area forms part,
 indicated that the person was, or persons generally were, permitted to enter or be present in that compulsory ticket area without having a platform ticket or a valid travel ticket.
- (3) This paragraph applies if the sole purpose of the person's presence in the compulsory ticket area is to provide assistance to another person and that other person has a platform ticket or a valid travel ticket entitling that person to be present in that compulsory ticket area.
- (4) In paragraph (2)(a), there are no facilities in operation for the sale of a platform ticket or a travel ticket if—
- (a) the person is not able to use any means of payment that person has available at the relevant time; and
  - (b) the person would usually be able to purchase a platform ticket or a travel ticket at the station in question using one of those means of payment.

### **Display of Notices**

- 8.—(1) The requirements for the display of notices are as follows.
- (2) Where any entrance onto a platform at the station is not the entrance to, or situated within, a compulsory ticket area, a notice complying with the requirements of paragraph 1 of Part 1 of Schedule 1 (“a standard notice”) must be displayed at that entrance.
- (3) If the station has one or more compulsory ticket areas, a notice complying with the requirements of paragraph 2 of Part 1 of Schedule 1 (“a compulsory ticket area notice”) must be displayed at each entrance into a compulsory ticket area.
- (4) Standard notices and compulsory ticket area notices must also be displayed at sufficient locations around the station so that at least one notice is readily visible to passengers prior to boarding a train at the station, including passengers changing from one train to another train.

### **Amount of penalty fare**

- 9.—(1) Where a penalty fare is charged under regulation 5(1) to a person travelling by, present on, or leaving a train, the amount of that penalty fare is £20 or twice the full single fare applicable, whichever is greater.
- (2) In paragraph (1), “the full single fare applicable” is the full single fare for the journey in question from the boarding station to—
- (a) the next station at which the train is due to make a scheduled call; or
  - (b) the station at which the person leaves the train if, at the time the penalty fare is charged—
    - (i) the person is leaving the train; or
    - (ii) the train is stationary at a station and there is sufficient opportunity for the person charged to leave the train at that station.

- (3) In paragraph (2), “the boarding station” means—
- (a) the station at which the person boarded the train; or
  - (b) where the station mentioned in sub-paragraph (a) is not known to the collector, the station at which the train last made a scheduled call.
- (4) Where a person present in or leaving a compulsory ticket area, other than as a result of leaving a train that arrived at that compulsory ticket area, is charged a penalty fare under regulation 5(1), the amount of the penalty fare is—
- (a) £20 or twice the full single fare applicable, whichever is greater; or
  - (b) £20 where that person does not intend to board a train for the purpose of travel.
- (5) In paragraph (4)(a) “the full single fare applicable” is the full single fare for a journey from the station of which the compulsory ticket area forms part, to the next station where the train, which that person intends to board, is due to make a scheduled call.
- (6) In this regulation “the full single fare applicable” is to be determined by reference to—
- (a) the age of the person in question;
  - (b) the day and time of the journey that person is making, has made or intends to make, as the case may be; and
  - (c) the train and route that person is using, has used or intends to use.

### **Collectors**

**10.**—(1) A collector must be in possession of that collector’s identification when performing the functions conferred on collectors by these Regulations.

(2) A collector’s identification must contain the information specified in Part 2 of Schedule 1.

(3) Where a collector requires a person to do anything under these Regulations, that collector must, if the person concerned so requests, produce the collector’s identification.

(4) A collector—

- (a) who fails to comply with paragraph (1) or (3); or
- (b) whose identification does not comply with paragraph (2),

has no authority to require a person to do anything, or to charge a penalty fare, under these Regulations.

(5) A collector may only charge a penalty fare under regulation 5(1) to a person who is travelling by, present on or leaving a train if the collector has been authorised to charge a penalty fare by the operator of that train.

(6) A person present in or leaving a compulsory ticket area, other than as a result of leaving a train that arrived at that compulsory ticket area, may only be charged a penalty fare under regulation 5(1) by a collector, if the collector has been authorised to charge a penalty fare by the operator of—

- (a) the station of which the compulsory ticket area forms part; or
- (b) any train that arrives at, or departs from, the compulsory ticket area.

### **Penalty fares and criminal offences**

**11.**—(1) A person who has been charged a penalty fare under regulation 5(1) is not liable to pay where proceedings for any of the offences specified in paragraph (4) are also brought against that person in relation to the same failure to produce a platform ticket or a valid travel ticket which gave rise to that penalty fare.

(2) If a person to whom paragraph (1) applies has paid the penalty fare, or part of it, the operator on whose behalf the penalty fare was charged must refund that person the amount paid within the period of 10 working days, beginning with the day on which proceedings are brought.

(3) Where a person falling within paragraph (1)(a) has appealed against the penalty fare under regulation 16, proceedings for any of the offences specified in paragraph (4) may only be brought against that person for the same failure to produce a platform ticket or a valid travel ticket if the operator, on whose behalf the penalty fare was charged, notifies the relevant Appeal Panel that the penalty fare is cancelled before—

- (a) the relevant Appeal Panel has decided the outcome of the appeal under regulation 16; or
- (b) the time period mentioned in paragraph 6 of Schedule 2 expires,

whichever is sooner.

(4) The offences referred to in paragraphs (1) and (3) are the offences under—

- (a) section 5(3)(a) or (b) of the Regulation of the Railways Act 1889(1);
- (b) any byelaw made under—
  - (i) section 67 of the Transport Act 1962(2);
  - (ii) section 129 of the Railways Act 1993(3);
  - (iii) section 219 of the Transport Act 2000(4);
  - (iv) section 46 of the Railways Act 2005(5).

### **Recovery of penalty fare as a civil debt**

**12.**—(1) Where a person charged a penalty fare under regulation 5(1) has not paid the penalty fare in full, the operator on whose behalf the penalty fare was charged may recover the amount outstanding as a civil debt in any of the following circumstances—

- (a) the person did not appeal under regulation 16 against the penalty fare within the 21 day period provided for by regulation 16(1)(a);
- (b) the person—
  - (i) appealed under regulation 16 within that period;
  - (ii) the relevant Appeal Panel notified the person that it had not allowed the appeal;
  - (iii) the relevant Appeal Panel adhered to the time period specified in paragraph 6 of Schedule 2; and
  - (iv) the person did not appeal under regulation 17 against that decision within the 14 day period provided for by regulation 17(1)(a);
- (c) the person—

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(1) 1889 c. 57; the maximum fine in section 5(3) was increased by Schedule 1 to the British Railways Act 1977 (c. xvii) and then subsequently converted to level 3 on the standard scale in England and Wales by section 46 of the Criminal Justice Act 1982 (c. 48) and in Scotland by section 289G of the Criminal Procedure (Scotland) Act 1975 (c. 21).

(2) 1962 c. 46; subsection (3) of section 67 was substituted by section 37 of the Transport Act 1981 (c. 56); the penalty in paragraph (a), and the first mentioned fine in paragraph (b), of that subsection were subsequently converted to references to the standard scale in England and Wales by section 46 of the Criminal Justice Act 1982; section 67 was subsequently repealed by Part 4 of Schedule 31 to the Transport Act 2000 (c. 38) but any byelaws made under section 67 that were in force immediately before it was repealed continue in force by virtue of paragraph 5 of Schedule 28 to the Transport Act 2000.

(3) 1993 c. 43; section 129 was repealed by Part 4 of Schedule 31 to the Transport Act 2000 (c. 38) but any byelaws made under section 129 that were in force immediately before it was repealed continue in force by virtue of paragraph 5 of Schedule 28 to the Transport Act 2000.

(4) 2000 c. 38; section 219 was repealed by Part 1 of Schedule 13 to the Railways Act 2005 (c. 14) but any byelaws made under section 219 that were in force immediately before it was repealed continue in force by virtue of section 46(4) of, and paragraph 2 of Part 2 of Schedule 13 to, the Railways Act 2005 (c. 14).

(5) 2005 c. 14; section 46 was amended by S.I. 2005/3050.

- (i) appealed under regulation 17 within that period;
  - (ii) the relevant Appeal Panel notified the person that it had not allowed the appeal;
  - (iii) the relevant Appeal Panel adhered to the time period specified in paragraph 6 of Schedule 2; and
  - (iv) the person did not appeal under regulation 18 against that decision within the 14 day period provided for by regulation 18(1)(a); or
- (d) the person—
- (i) appealed under regulation 18 within that period;
  - (ii) the relevant Final Appeal Panel notified the person that it had not allowed the appeal; and
  - (iii) the period of 14 days, beginning with the day following the day on which the notice of that decision was received, has elapsed.

**Requirement for a person to give name and address**

**13.**—(1) Where a collector proposes to charge a person a penalty fare under regulation 5(1), that person must, subject to regulation 10(4), provide their name and address when required to do so by the collector.

(2) Any person who fails to provide their name and address in accordance with paragraph (1) is guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.