
STATUTORY INSTRUMENTS

2018 No. 406

PUBLIC PASSENGER TRANSPORT, ENGLAND

The Public Service Vehicles (Registration of Local Services) (Franchising Schemes Transitional Provisions and Amendments) (England) Regulations 2018

<i>Made</i>	- - - -	<i>26th March 2018</i>
<i>Laid before Parliament</i>		<i>3rd April 2018</i>
<i>Coming into force</i>	- -	<i>24th April 2018</i>

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 123U(1), 123V and 160(1) of the Transport Act 2000(1).

Citation, commencement and application

1.—(1) These Regulations may be cited as the Public Service Vehicles (Registration of Local Services) (Franchising Schemes Transitional Provisions and Amendments) (England) Regulations 2018.

(2) These Regulations come into force on 24th April 2018.

(3) These Regulations apply in relation to local services(2) that have stopping places(3) in England only.

Interpretation

2. In these Regulations—

“the 1985 Act” means the Transport Act 1985(4);

“the 2000 Act” means the Transport Act 2000;

“the 1986 Regulations” means the Public Service Vehicles (Registration of Local Services) Regulations 1986(5);

(1) 2000 c.38; in relation to England and Wales, sections 123U and 123V were inserted by section 4 of the Bus Services Act 2017 (c.21).

(2) By virtue of section 162(3) of the Transport 2000 (“the 2000 Act”), the term “local service” has the same meaning as in section 2(1) of the Transport Act 1985 (“the 1985 Act”).

(3) By virtue of section 162(3) of the 2000 Act, the term “stopping place” has the same meaning as in section 137(1) of the 1985 Act.

(4) 1985 c. 67.

(5) S.I. 1986/1671; relevant amending instruments are S.I. 2004/10, 2009/443, 2009/3245 and 2013/1644.

“the 2009 Regulations” means the Public Service Vehicles (Registration Restrictions) (England and Wales) Regulations 2009(6);

“cut-off date” means the date that is 70 days before the latest date;

“excepted service” means a local service which is excepted from regulation arising because of a franchising scheme(7) by any provision of that scheme that is made under section 123H(5) of the 2000 Act;

“exempt service” means a service using a vehicle under a permit granted under section 22 of the 1985 Act (community bus permits);

“expansion notice” means a notice of a decision to vary a franchising scheme pursuant to section 123M(1) of the 2000 Act (variation of scheme) by adding an area to the existing franchising scheme area;

“franchising scheme area” means the area to which a franchising scheme relates;

“latest date” means the latest date on which any area in which a service has a stopping place ceases to be part of a franchising scheme as a result of a variation of the scheme pursuant to section 123M(1) of the 2000 Act or as a result of a revocation of the scheme pursuant to section 123N(1)(revocation of a scheme) of that Act;

“registration” means the registration of the prescribed particulars of a service pursuant to section 6 of the 1985 Act;

“registration restrictions” means restrictions imposed under section 113D(1) or 114(3A) of the 2000 Act (advanced quality partnership schemes and quality partnership schemes);

“service” has the same meaning as in section 6(1) of the 1985 Act;

“traffic commissioner” means a commissioner appointed under section 4 of the Public Passenger Vehicles Act 1981(8); and

“transitional notice” means a notice published under regulation 4(2).

Requirements when a franchising scheme is made or varied to increase the area to which it relates

3. A franchising authority or authorities(9) must include in their franchising scheme and any expansion notice—

- (a) the date on which a local service may first be provided under any local service contract(10) in the franchising scheme area or in the area added pursuant to an expansion notice, as the case may be; or
- (b) where the franchising scheme or expansion notice provides for scheme sub-areas(11), the date on which a local service may first be provided under a local service contract in each scheme sub-area,

(6) [S.I. 2009/443](#); amended by [S.I. 2013/1644](#).

(7) By virtue of section 162(1) of the Transport Act 2000 (“the 2000 Act”), as amended by paragraph 23 of Schedule 2 to the Bus Services Act 2017, “franchising scheme” is to be construed in accordance with section 123A(3) of the 2000 Act, inserted by section 4 of the Bus Services Act 2017.

(8) [1981 c.14](#). Section 4 was substituted by section 3(2) of the Transport Act 1985. It was also amended by sections 2(1) to (6) and 3(2)(a) of the Local Transport Act 2008 ([c.26](#)).

(9) The term “franchising authority or authorities” is used in section 123A of the 2000 Act. A franchising scheme may be made by a single authority or by two or more authorities acting jointly. By virtue of section 162(1) of the 2000 Act, as amended by paragraph 23 of Schedule 2 to the Bus Services Act 2017, “franchising authority” has the meaning given in section 123A(4) of the 2000 Act, inserted by section 4 of the Bus Services Act 2017. No Regulations have been made under section 123A(4).

(10) By virtue of section 162(1) of the 2000 Act as amended by paragraph 23 of Schedule 2 to the Bus Services Act 2017, “local service contract” has the meaning given in section 123A(5) of the 2000 Act, inserted by section 4 of the Bus Services Act 2017.

(11) See section 123H(3)(a) of the 2000 Act for the meaning of “scheme sub-area”.

and must update the scheme and any notice forthwith if any such date is changed pursuant to section 123I (postponement of local service contracts) or section 123L (exceptions to section 123K) of the 2000 Act.

Notice periods in relation to a variation or cancellation of a registration before a franchising scheme is in operation

4.—(1) This regulation applies to an application—

- (a) to vary or cancel the registration of a service that—
 - (i) has one or more stopping places in a franchising scheme area;
 - (ii) is not an excepted service;
 - (iii) is not an exempt service; and
 - (iv) is not one in relation to which registration restrictions have effect, and
- (b) that is accepted by a traffic commissioner before section 123J(2) of the 2000 Act has effect in relation to that area.

(2) Subject to paragraphs (3) and (4), a franchising authority or authorities may publish a notice which provides that the period referred to in section 6(8)(a) of the 1985 Act, in relation to an application referred to in paragraph (1), is the period specified in the notice, such period to begin with the date on which a traffic commissioner accepts the application and not to exceed 112 days.

(3) Subject to paragraph (4), where an application—

- (a) relates to a service that has one or more stopping places in more than one franchising scheme area;
- (b) is accepted by a traffic commissioner before section 123J(2) has effect in relation to any such area; and
- (c) has more than one transitional notice published under paragraph (2) relating to it,

the period referred to in section 6(8)(a) of the 1985 Act is the longest period specified in any such transitional notice.

(4) Where an application, to which one or more transitional notices relate, is to vary a registration only—

- (a) to enable the operator of a service to comply with a traffic regulation condition or any other provision made by or under an enactment prohibiting or restricting the use of any road by vehicular traffic; or
- (b) in respect of a change in the operator's address,

the date on which the period referred to in section 6(8)(a) of the 1985 Act ends is the date given to a traffic commissioner by the operator as the effective date for the variation, and accordingly section 6(8)(b) of the 1985 Act does not have effect.

(5) Where paragraph (2), (3) or (4) applies, regulations 5(2)(b) and 7(1)(b) of the 1986 Regulations do not apply.

(6) When a franchising authority or authorities publish a transitional notice they must publish it at the same time as they—

- (a) publish a franchising scheme under section 123H(1) of the 2000 Act; or
- (b) publish an expansion notice,

as the case may be.

(7) When a franchising authority or authorities publish a transitional notice they must give notice of the publication to a traffic commissioner within the period of 14 days beginning with the date on which the transitional notice is published.

(8) Subject to paragraph (9), a franchising authority or authorities may specify different periods in a transitional notice for different cases and, in particular, may specify—

- (a) different periods depending on the number of stopping places a service has in a franchising scheme area; or
- (b) that a period expires immediately after a traffic commissioner accepts an application.

(9) A franchising authority or authorities must specify the same period in relation to applications of the same type for each scheme sub-area.

(10) For the purposes of this regulation, “traffic regulation condition” has the same meaning as in section 7(1) of the 1985 Act.

Short notice registration before a franchising scheme is in operation

5.—(1) Where an application for registration—

- (a) relates to a service that—
 - (i) has one or more stopping places in a franchising scheme area;
 - (ii) is not an excepted service in every franchising scheme area in which it has a stopping place;
 - (iii) is not an exempt service;
 - (iv) is not one in relation to which registration restrictions have effect; and
 - (v) is to be provided under an agreement between a franchising authority or authorities and a person who undertakes to provide a service on terms which may include provision for the making of payments to that person by the authority or authorities, and
- (b) is accepted by a traffic commissioner before section 123J(2) of the 2000 Act has effect in relation to the franchising scheme area or, where the service has a stopping place in more than one franchising scheme area, any one of those areas,

paragraphs (2) and (3) have effect.

(2) Section 6 of the 1985 Act has effect with the following modifications—

- (a) in subsection (2)(b), for the words “period of notice in relation to the registration has expired” substitute “period of notice beginning with the date the application is accepted by a traffic commissioner and ending with the date given to a traffic commissioner by the operator as the date on which the service will begin has expired”; and
- (b) subsection (3) is omitted.

(3) Regulations 5(1) and 7(1)(a) of the 1986 Regulations do not apply.

Effect of a franchising scheme on an application for registration, variation or cancellation

6. Where an application for registration, or the variation or cancellation of a registration, is received by a traffic commissioner before section 123J(2) of the 2000 Act has effect in relation to any franchising scheme area in which the service to which the application relates has a stopping place, and the service—

- (a) is not an excepted service in every franchising scheme area in which it has a stopping place; and
- (b) is not an exempt service,

a traffic commissioner must not accept that application after section 123J(2) has effect in any such area.

Application period for a registration, variation or cancellation when a franchising scheme is in operation

7.—(1) Where sections 6 to 9 of the 1985 Act do not have effect in relation to a franchising scheme area by virtue of section 123J of the 2000 Act, the provisions of the 1985 Act that are set out in paragraph (2) nevertheless have effect.

(2) The provisions of the 1985 Act are—

- (a) (i) section 6(1) to (1E), (2A), (4) to (7), and
(ii) section 6A, and
- (b) paragraph (a) of section 6(2) (prescribed particulars) and section 6(9) to the extent that they introduce regulations 1 to 4, 9A, 10 and 12 of the 1986 Regulations, and the 2009 Regulations; which provisions also have effect.

(3) A traffic commissioner may, by virtue of paragraphs (1) and (2), accept an application for registration, or the variation or cancellation of a registration, where such an application—

- (a) relates to a service that—
 - (i) has a stopping place in a franchising scheme area;
 - (ii) is not an excepted service in every franchising scheme area in which it has a stopping place;
 - (iii) is not an exempt service, and
- (b) is received by a traffic commissioner after section 123J(2) has effect in relation to the franchising scheme area, or where the service has a stopping place in more than one franchising scheme area, any one of those areas.

(4) Subject to paragraph (5), a traffic commissioner must not accept any application to which paragraph (3) relates which is received later than the cut-off date.

(5) A traffic commissioner must accept an application to which paragraph (3) relates where such an application is in relation to a service which is to be provided under an agreement between a franchising authority or authorities and a person who undertakes to provide a service on terms which may include provision for the making of payments to that person by the authority or authorities.

Notice period in relation to a registration after a franchising scheme is in operation

8.—(1) Where an application for registration—

- (a) is one to which regulation 7(3) relates,
- (b) is not one in respect of a service in relation to which registration restrictions have effect, and
- (c) is received by a traffic commissioner before the cut-off date,

the period of notice referred to in section 6(2)(b) of the 1985 Act, when that section applies by virtue of an area ceasing to be a franchising scheme area, expires on the latest date, and paragraphs (2) and (3) have effect.

(2) Section 6(3) of the 1985 Act is omitted.

(3) Regulations 5(1) and 7(1)(a) of the 1986 Regulations do not apply.

Notice period in relation to a variation or cancellation of a registration after a franchising scheme is in operation

9.—(1) Where an application to vary or cancel a registration—

- (a) is one to which regulation 7(3) relates,

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(b) is not one in respect of a service in relation to which registration restrictions have effect, and

(c) is received by a traffic commissioner before the cut-off date,

the variation or cancellation is effective for the purposes of section 6(8)(a) of the 1985 Act, when that section applies by virtue of an area ceasing to be a franchising scheme area, on the latest date and paragraph (2) has effect.

(2) Regulations 5(2)(b) and (7)(1)(b) of the 1986 Regulations do not apply.

Consequential amendments

10. In their application to England, the 1986(12) Regulations and the 2009 Regulations (13) are amended to the extent specified in the Schedule.

Signed by the authority of the Secretary of State for Transport

Nusrat Ghani
Parliamentary Under Secretary of State
Department for Transport

26th March 2018

(12) S.I. 1986/1671; relevant amending instruments are S.I. 2004/10, 2009/443, 2009/3245 and 2013/1644.

(13) S.I. 2009/443; amended by S.I. 2013/1644.

SCHEDULE

Regulation 10

Amendments

The Public Service Vehicles (Registration of Local Services) Regulations 1986

1.—(1) The Public Service Vehicles (Registration of Local Services) Regulations 1986 are amended as follows.

(2) In regulation 2(interpretation), in paragraph (1)—

- (a) after the definition of “the 1985 Act” insert ““the 2018 Regulations” means the Public Service Vehicles (Registration of Local Services) (Franchising Schemes Transitional Provisions and Amendments) (England) Regulations 2018;”;
- (b) after the definition of “fixed stopping place” insert ““franchising authority” has the same meaning as in section 123A(4) of the Transport Act 2000”;
- (c) in the definition of “relevant authority” after the words “islands council” insert “or franchising authority”.

(3) Regulation 4A is renumbered regulation 4A(1).

(4) After regulation 4A(1), as renumbered, insert—

“(2) Regulations 5(2)(b) and 7(1)(b) do not apply to any application to which regulation 4(2), (3) or (4), or 9(1) of the 2018 Regulations relate.

(3) Regulations 5(1) and 7(1)(a) do not apply to any application to which regulation 5(1) or 8(1) of the 2018 Regulations applies.”.

(5) In regulation 9A in paragraphs (1) and (3)(c)—

- (a) after the words “by virtue of” insert “section 123J(3) (prohibition on provision of certain local services in an area to which a franchising scheme relates) or”;
- (b) omit the words “of the Transport Act 2000”; and
- (c) after “(prohibition on provision of local services other than under a quality contract)” insert “of the Transport Act 2000”.

The Public Service Vehicles (Registration Restrictions) (England and Wales) Regulations 2009

2.—(1) The Public Service Vehicles (Registration Restrictions) (England and Wales) Regulations 2009 are amended as follows.

(2) In regulation 6 (period of notice for purposes of section 6 of the 1985 Act)—

- (a) in paragraphs (1) and (5), for “Where” substitute “Subject to paragraph (7), where”;
- (b) in paragraph (2), for “Unless” substitute “Subject to paragraph (7), unless”;
- (c) in paragraph (4), for “The” substitute “Subject to paragraph (7), the”;
- (d) after paragraph (6) insert the following—

“(7) Where a franchising application is—

- (a) received after section 123J(2) of the 2000 Act has effect in relation to an area to which a franchising scheme relates and in which the service has a stopping place; and
- (b) is accepted by a traffic commissioner before the cut-off date,

the period or date determined by a traffic commissioner in accordance with this regulation must not end, or be a date, earlier than the latest date, and paragraph (5) does not apply.

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(8) For the purposes of this regulation—

“the 2000 Act” means the Transport Act 2000;

“cut-off date” means the date that is 70 days before the latest date;

“expansion notice” means a notice of a decision to vary a franchising scheme pursuant to section 123M(1) of the 2000 Act (variation of scheme) by adding an area to the area to which a franchising scheme already relates;

“excepted service” means a local service which is excepted from regulation arising because of a franchising scheme by any provision of that scheme that is made under section 123H(5) of the 2000 Act;

“exempt service” means a service using a vehicle under a permit granted under section 22 of the 1985 Act (community bus permits);

“franchising application” means a relevant application in respect of a service which—

- (a) has one or more stopping places in an area to which a franchising scheme relates;
- (b) is not an excepted service in every such area; and
- (c) is not an exempt service;

“franchising scheme” has the same meaning as in section 123A(3) of the Transport Act 2000; and

“latest date” means the latest date on which any area in which a service has a stopping place ceases to be part of a franchising scheme as a result of a variation of a scheme pursuant to section 123M(1) of the 2000 Act or as a result of a revocation of a scheme pursuant to section 123N(1) (revocation of a scheme) of that Act.”.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision about local services with stopping places in England only, and cater for the transition of the bus market into, and out of, franchising. They make provision about registrations, variations and cancellations when a franchising scheme has been made but before sections 6 to 9 (registration of local services) of the Transport Act 1985 (“1985 Act”) cease to have effect in a franchising scheme area. They also make provision which enable services which could not otherwise be registered when a franchising scheme is in operation, to be registered, varied or cancelled, and provide that the relevant notice period in relation to such services expires when a service no longer has a stopping place in any franchising scheme area.

A franchising scheme is made under the Transport Act 2000 (“2000 Act”). Under such a scheme a franchising authority or authorities determine the local services in the area to which their scheme relates. Where a scheme is in operation, sections 6 to 9 of the 1985 Act (registration of local services) cease to have effect, and the prohibition on the provision of certain local services set out in section 123J(3) of the 2000 Act (“the prohibition”) has effect. The prohibition means that a local service may only be provided under a local service contract or a service permit, or if it is an interim

service. These provisions do not affect local services that are excepted by a provision in a franchising scheme or provided by using a vehicle under a permit granted under section 22 of the 1985 Act. A local service contract is an agreement under which the franchising authority or authorities grant to another person the exclusive right to operate local services to which the contract relates, and the person undertakes to provide the local services on such terms as may be specified in the agreement.

Regulation 3 requires a franchising authority or authorities to include in their franchising scheme, and in any notice of a decision to vary their franchising scheme by adding an area to it (“expansion notice”), the date on which a local service may first be provided under a local service contract in their franchising scheme area or in the area added to that area. It also requires a franchising scheme or expansion notice to be updated if that date changes.

Regulation 4 provides that a franchising authority or authorities may publish a notice which provides that when an application to vary or cancel a service with a stopping place in their franchising scheme area is accepted by a traffic commissioner before their franchising scheme comes into operation, the period that must expire before the variation or cancellation is effective is the period specified in the notice (“transitional notice”). If a service has a stopping place in more than one franchising scheme area and more than one transitional notice relates to that service, regulation 4 provides that the period that applies is the longest specified in any of those notices. Where an application is only to enable an operator to comply with a traffic regulation condition or other such restriction, or only in respect of a change of address, the notice period ends on the date given to a traffic commissioner by an operator. A transitional notice must be published at the same time as a franchising scheme or expansion notice, and must not specify a period longer than 112 days. The notice may specify different periods for different cases and may provide for a notice period to have effect immediately after a traffic commissioner has accepted an application. The franchising authority or authorities must inform a traffic commissioner of the publication of the notice.

Regulation 5 provides that there is a short notice period for applications to register certain services which have a stopping place in a franchising scheme area and which are accepted in the period leading up to a franchising scheme coming into operation. This regulation applies to applications in relation to services provided pursuant to an agreement with a franchising authority or authorities. The period of notice in relation to those applications is the date given to a traffic commissioner by the operator.

Regulation 6 provides that a traffic commissioner must not accept an application to register, vary or cancel a service, other than an excepted service or an exempt service, received before sections 6 to 9 of the 1985 Act cease to have effect in any franchising scheme area in which the service to which the application relates has a stopping place, once those sections cease to have effect.

Regulation 7 provides that certain provisions in the 1985 Act, certain provisions in the Public Service Vehicles (Registration of Local Services) Regulations 1986 (“the 1986 Regulations”) and the Public Service Vehicles (Registration Restrictions) (England and Wales) Regulations 2009 (“the 2009 Regulations”), which would not have effect as a result of the application of section 123J of the 2000 Act, nevertheless have effect in order to facilitate the registration of services, and the variation and cancellation of such services, in the period when a franchising scheme is in operation. It also provides that a traffic commissioner is able to accept applications in that period other than applications received later than 70 days before the reduction or revocation of a franchising scheme has effect (“cut-off date”). A traffic commissioner must, however, accept an application after the cut-off date if it is in relation to a service provided pursuant to an agreement with a franchising authority or authorities. This regulation does not permit an operator to operate a service that has been registered during the period of operation of a franchising scheme

Regulation 8 provides that where an application is received to register a service before the cut-off date, the notice period expires on the latest date any franchising scheme ceases to have effect in an area in which the service has a stopping place. Regulation 9 makes similar provision in relation to applications to vary or cancel a service.

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Regulation 10 introduces a Schedule which amends, in their application to England, two sets of Regulations. The 1986 Regulations are amended so as to ensure that in circumstances when these Regulations apply, the relevant regulations in the 1986 Regulations do not apply; and require a traffic commissioner to cancel the registration of a service when the prohibition set out in section 123J(3) of the 2000 Act requires a service to cease. The Schedule also amends the 2009 Regulations to ensure that when a traffic commissioner determines a notice period or date in relation to an application to which registration restrictions relate, and the application is accepted when a franchising scheme is in operation, the expiry date is no earlier than the latest date on which the service to which the application relates ceases to have a stopping place in an area to which a franchising scheme relates.

A full impact assessment has not been published for these Regulations. However, an assessment has been made of the impact of the Bus Services Act 2017. Copies of that impact assessment may be obtained from the Buses and Taxis Division, Department for Transport, 2/14 Great Minster House, 33 Horseferry Road, London, SW1P 4DR or from the Department for Transport website: <https://www.gov.uk/government/publications/bus-services-bill-impact-assessments>.

An Explanatory Memorandum is published alongside the instrument at www.legislation.gov.uk.