

2018 No. 439

PUBLIC PASSENGER TRANSPORT, ENGLAND

**The Public Service Vehicles (Registration of Local Services)
(Amendment) Regulations 2018**

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| <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 for Transport makes the following Regulations in exercise of the powers conferred by section 60(1) of the Public Passenger Vehicles Act 1981(a) and sections 6(3)(a) and (9)(k) and 6C of the Transport Act 1985(b).

Representative organisations have been consulted in accordance with section 61(2) of the Public Passenger Vehicles Act 1981(c).

Citation, commencement, extent and application

1.—(1) These Regulations may be cited as the Public Service Vehicles (Registration of Local Services) (Amendment) Regulations 2018 and come into force on 24th April 2018.

- (2) These Regulations extend to England and Wales.
- (3) These Regulations apply in relation to England only.

Amendment of the Public Service Vehicles (Registration of Local Services) Regulations 1986

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

- (2) In regulation 2(1) (interpretation), before the definition of “bank holiday” insert—

““appropriate English authority” means a local transport authority in England in whose area the service in question has a stopping place;”.
- (3) In regulation 3 (applications for registration), after paragraph (3) insert—

“(3A) Except in a case where paragraph (3D) applies, at least 28 days before the date on which an application for registration or for the variation or cancellation of a registration is made to a traffic commissioner, the applicant must provide a draft of the proposed application to each appropriate English authority.

(a) 1981 c.14 (“the 1981 Act”).
(b) 1985 c.67. In relation to England and Wales, section 6(9) was amended by section 65(2) and (3) of the Local Transport Act 2008 (c.26). Section 6C was inserted by section 19(1) of the Bus Services Act 2017 (c.21). By virtue of sections 134(1) and 135(1), sections 60 and 61 of the 1981 Act have effect as if Parts 1 and 2 of the Transport Act 1985 were contained in the 1981 Act. See section 137(1) for the meaning of “prescribed”.
(c) Section 61(2) was amended by sections 135(1) and 139(3) of, and Schedule 8 to, the Transport Act 1985.
(d) S.I 1986/1671.

(3B) The applicant may not submit an application for registration or for the variation or cancellation of a registration to a traffic commissioner before—

(a) the applicant has received a notice in writing from each appropriate English authority confirming that it has received and considered the draft provided under paragraph (3A); or

(b) the expiry of 28 days after the date the draft was provided under paragraph (3A), whichever is earlier.

(3C) Paragraph (3A) applies only to an application for registration, or for the variation or cancellation of a registration, made on or after 24th April 2018.

(3D) This paragraph applies in a case where—

(a) the period of notice in relation to the registration; or

(b) the effective date of the variation or the cancellation,

is that which applies in relation to an application which is determined in accordance with the 2018 Regulations.”.

(4) After regulation 3 insert—

“Information to be provided in connection with a variation or cancellation of a registration

3A.—(1) This regulation applies where the operator of a service has provided a draft of an application under regulation 3(3A) for—

(a) variation of the registration of the service; or

(b) cancellation of the registration of the service,

other than an excluded application.

(2) The following are excluded applications—

(a) an application to vary a service to provide additional stopping places for the service (without removing any such stopping places);

(b) an application to vary a service so as to increase the frequency of the service;

(c) an application to vary a service so as to extend the period in any day for which the service operates; or

(d) an application to vary or cancel a service coming within a case specified in regulation 7(2)(a) to (f) and (i)(a).

(3) Where this regulation applies, an appropriate English authority may require the information specified in paragraph (5) but only for the purpose of the exercise of any functions it has under—

(a) section 9A of the Transport Act 1968(b)(general functions of authorities and executives); or

(b) section 63 of the 1985 Act(c)(functions of local councils with respect to passenger transport etc.).

(4) In any case where an appropriate English authority requires any of the information specified in paragraph (5) in connection with an application, it must notify the operator

(a) Regulation 7(2)(b) was amended by S.I. 2004/10.

(b) 1968 c.73. Section 9A was inserted by section 57 of the 1985 Act. It was amended by sections 161 and 274 of, and paragraph 3 of Schedule 11 and paragraph 1 of Schedule 31 to, the Transport Act 2000 (c.38), sections 10, 67, 77 and 131 of, and paragraph 3 of Schedule 4 and paragraph 1 of Schedule 7 to, the Local Transport Act 2008 (c.26) and by S.I. 2014/866 and 2016/653.

(c) Section 63 was amended by paragraph 11 of Schedule 11 and paragraph 1 of Schedule 31 to, the Transport Act 2000 (c.38), section 68 of, and paragraph 4 of Schedule 4 and paragraph 1 of Schedule 7 to, the Local Transport Act 2008 (c.26) and by S.I. 2009/3294.

within 14 days of receiving the draft mentioned in paragraph (1) that it requires that information.

(5) That information is information as to—

- (a) the total number of journeys undertaken by passengers on the service in question or on particular parts of that service specified in the notice;
- (b) the number and types of passengers using the relevant service, the journeys made by those passengers, the types of fares paid by them and the types of tickets used by them, on the whole service or on particular parts of the relevant service specified in the notice; and
- (c) the revenue received from the relevant service or particular parts of the relevant service specified in the notice including information about revenue attributable to specified types of fares or journeys undertaken and to specified times of the day or week.

(6) Information mentioned in paragraph (5) must relate to whichever is the shorter of the period—

- (a) of 12 months ending with the date on which the information is requested; or
- (b) beginning with the date on which the service started and ending with the date on which the information is requested.

(7) Where the operator is required to provide an appropriate English authority with the information mentioned in paragraph (5)—

- (a) the information must be provided within 14 days of the receipt of the notification under paragraph (4); and
- (b) the operator may provide the information in any form in which, having regard to the manner in which the information is kept, it is reasonable to expect the operator to provide it.

Disclosure of information provided under regulation 3A

3B.—(1) An appropriate English authority must not disclose information provided by an operator under regulation 3A except in accordance with this regulation.

(2) An appropriate English authority may, subject to paragraphs (3) to (5), disclose relevant information—

- (a) to other operators in connection with inviting tenders in accordance with section 89(1) of the 1985 Act; or
- (b) to other operators and providers of public transport in the area of the authority where the authority wish to enable discussions to take place about the provision of adequate public transport in that area.

(3) An operator may, when providing information under regulation 3A, request that relevant information is not to be disclosed to other operators or providers of public transport under paragraph (2) on the basis that it would damage its commercial interests and may submit evidence in connection with that request.

(4) Where the appropriate English authority is satisfied, on considering any evidence submitted under paragraph (3), that disclosure of relevant information to other operators or providers of public transport would damage the operator's commercial interests, it must not disclose that information under paragraph (2).

(5) In any case where paragraph (4) does not apply, information provided—

- (a) under regulation 3A(5)(a) and (b) may only be disclosed under paragraph (2) where it has been aggregated on a 4 weekly basis;
- (b) under regulation 3A(5)(c) may only be disclosed under paragraph (2) where it has been aggregated on an annual basis.

(6) Relevant information provided to an appropriate English authority (“the lead authority”) may be disclosed to another appropriate English authority in any case where—

- (a) there is more than one appropriate English authority; and
- (b) each other appropriate English authority has agreed that only the lead authority will receive the information from the operator.

(7) Where another appropriate English authority has received relevant information under paragraph (6), that authority must not further disclose that information.

(8) In this regulation, “relevant information” means—

- (a) in relation to information disclosable by virtue of paragraph (2)(a), information provided by an operator under regulation 3A(5)(a), (b) or (c);
- (b) in relation to information disclosable by virtue of paragraph (2)(b), information provided by an operator under regulation 3A(5)(a) or (b).”.

(5) In regulation 5(a) (periods of notice)—

- (a) in paragraphs (1)(a) and (2)(a), for “28 days” substitute “14 days”;
- (b) in paragraphs (1)(b) and (2)(b), for “56 days” substitute “42 days”.

(6) After regulation 15 insert—

“Review

16.—(1) The Secretary of State must from time to time—

- (a) carry out a review of the regulatory provision contained in regulations 3(3A) to (3D), 3A, 3B and 5(1)(a) and (b) and (2)(a) and (b); and
- (b) publish a report setting out the conclusions of the review.

(2) The first report must be published before 24th April 2023.

(3) Subsequent reports must be published at intervals not exceeding 5 years.

(4) Section 30(4) of the Small Business, Enterprise and Employment Act 2015(b) (“the 2015 Act”) requires that a report published under this regulation must, in particular—

- (a) set out the objectives intended to be achieved by the regulatory provision referred to in paragraph (1)(a);
- (b) assess the extent to which those objectives are achieved;
- (c) assess whether those objectives remain appropriate; and
- (d) if those objectives remain appropriate, assess the extent to which they could be achieved in another way which involves less onerous regulatory provision.

(5) In this regulation, “regulatory provision” has the same meaning as in sections 28 to 32 of the 2015 Act (see section 32 of that Act).”.

Signed by authority of the Secretary of State for Transport

26th March 2018

Nusrat Ghani
Parliamentary Under Secretary of State
Department for Transport

(a) Regulation 5 was amended by S.I. 2009/3245.

(b) 2015 c.26.

EXPLANATORY NOTE

(This note is not part of the Regulations)

Regulation 2 of these Regulations amends the Public Service Vehicles (Registration of Local Services) Regulations 1986 (S.I.1986/1671). Those Regulations set out the process that must be followed in order to register a local bus service with a traffic commissioner and these Regulations relate to the registration of services with stopping places in England.

Paragraph (2) defines “appropriate English authority” for the purpose of those Regulations. Paragraph (3) creates a requirement that a bus operator must provide each appropriate English authority with a copy of the complete draft of an application it intends to submit for registration, variation or cancellation of a service at least 28 days before it makes that application. It also provides that the applicant must not submit their application until the appropriate English authority has either confirmed receipt of that application or 28 days have elapsed, whichever is the earlier. It also provides that this requirement will only apply in respect of applications made on or after 24th April 2018 and that the requirement will not apply in cases where the period of notice of the registration or the effective date of the variation or cancellation is modified by the Public Service Vehicles (Registration of Local Services)(Franchising Schemes Transitional Provisions and Amendments)(England) Regulations 2018 (S.I.2018/406).

Paragraph (4) requires bus operators which have applied to vary or cancel a registration of a service (except certain excluded applications), to provide certain information to each appropriate English authority. That information relates to the numbers of passengers using that service, the types of tickets used by those passengers, the structure of the fares on that service and the revenue obtained from that service over a period of at least 12 months. That paragraph also prescribes rules about the disclosure of such information to other operators and providers of public transport and to other appropriate English authorities, in particular as to what information may be disclosed and in what circumstances.

Paragraph (5) reduces the notice period between the time when the traffic commissioner accepts an application for registration or for variation or cancellation of a local service and the time when the notice period expires in relation to that application from 56 days to 42 days. It also reduces the same period for applications for registrations, variations and cancellations in relation to community bus services from 28 days to 14 days.

Paragraph (6) requires the Secretary of State to review the operation and effect of these Regulations and to publish a report within five years after these Regulations come into force and in any event not later than 24th April 2023.

An impact assessment of the effect that this instrument will have on the costs of the private, public and voluntary sectors is available from the Department for Transport, Great Minster House, 33 Horseferry Road, London SW1P 4DR (telephone 020 7944 5361). A copy may be obtained from the Department for Transport website (www.gov.uk/government/organisations/department-for-transport). A copy of the assessment has been placed in the library of each House of Parliament. An Explanatory Memorandum is available alongside this instrument on the UK legislation website at www.legislation.gov.uk.

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