



Edinburgh Tram (Line Two) Act 2006

2006 asp 6

PART 3

PENALTY FARES

43 Interpretation for Part 3

- (1) In this Part, unless the context otherwise requires—
- “authorised person” means, in relation to any purpose, a person authorised for that purpose by the authorised undertaker;
 - “fare ticket” means a ticket authorising the person in respect of whom it is issued to travel on a tram;
 - “general travel authority” means any permit, other than a fare ticket, authorising the person in respect of whom it is issued to travel on a tram;
 - “passenger” means a person travelling on a tram;
 - “penalty fare” means a penalty fare payable pursuant to section 45 (Penalty fares);
 - “the penalty fare provisions” means sections 45 (Penalty fares) to 48 (Notice of penalty fare provisions); and
 - “stop” means a regular stopping place on the authorised tramway at which passengers board or alight from trams.
- (2) Any reference in this Part to a passenger producing a fare ticket or general travel authority on being required to do so by an authorised person is a reference to producing, when so required, a fare ticket or general travel authority which, either by itself or together with any other document produced by that passenger at the same time, is valid for the journey made by the passenger.
- (3) For the purposes of subsection (2), a passenger shall be taken to have made a journey ending at the next scheduled stop.

44 Operation of Part 3

Scottish Ministers may by order provide that the penalty fare provisions shall have effect on and after such day as may be specified in the order.

45 Penalty fares

- (1) If a passenger, on being required to do so by an authorised person, fails to produce a fare ticket or a general travel authority, that passenger shall be liable to pay a penalty fare if required to do so by an authorised person.
- (2) A passenger shall not be liable to pay a penalty fare if at the stop where, and the time when, the passenger boarded the tram—
 - (a) in the case of a passenger who produces a fare ticket which is invalid only by reason of its not bearing the imprint required by the authorised undertaker at that time, there were no facilities for making that imprint on fare tickets; or
 - (b) in the case of any other passenger, there were no facilities for the sale of the necessary fare ticket for the journey made by the passenger.
- (3) Any penalty fare charged in accordance with the penalty fare provisions shall be payable within 21 days commencing on the day on which such penalty fare is charged.
- (4) The amount of any penalty fare charged in accordance with the penalty fare provisions and not paid within 21 days may be recovered from the person as a civil debt.
- (5) Subsections (6) and (7) have effect with respect to the burden of proof in any action for the recovery of a penalty fare under this section so far as concerns the question of whether the facts of the case fall within subsection (2).
- (6) In any case where the passenger has provided the authorised undertaker with a relevant statement in due time it shall be for the authorised undertaker to show that the facts of the case do not fall within subsection (2) and in any other case it shall be for the passenger to show that the facts of the case fall within that provision.
- (7) For the purposes of subsection (6)—
 - (a) a relevant statement is one giving an explanation of the passenger’s failure to produce a fare ticket or general travel authority, together with any information as to the passenger’s journey relevant to that explanation (including, in every case, an indication of the stop where the passenger boarded the tram); and
 - (b) a statement is provided in due time if it is provided when the passenger is required to produce a fare ticket or general travel authority, or at any later time before the expiration of the period of 21 days beginning with the day following the day on which the journey was completed.

46 Amount of penalty fare

- (1) A penalty fare shall be twenty five times the maximum single adult cash fare.
- (2) In this section “maximum single adult cash fare” means the highest value cash fare for any single adult journey on the tram network.

47 Document to be issued in connection with penalty fare requirement

- (1) An authorised person who requires a passenger to pay a penalty fare shall give the passenger either a receipt for the payment of the amount of the penalty fare (where such payment is made to the authorised person) or a written notice setting out the amount of the penalty fare, the address to which payment may be made and a statement that payment must be made within 21 days of the person’s receipt of that notice.

- (2) A receipt or notice given under subsection (1) shall specify the passenger's destination on the tram on which the passenger is travelling when required to pay the penalty fare, and shall operate as an authority for the passenger to complete the journey to that destination.
- (3) For the purposes of subsection (2), the passenger's destination shall (unless only one destination is possible in the circumstances) be taken to be the destination stated by the passenger or, in default of any such statement, such destination as may be specified by the authorised person.

48 Notice of penalty fare provisions

- (1) It shall be the duty of the authorised undertaker to secure that a warning notice meeting the requirements of subsection (2) is posted—
 - (a) at every stop, in such a position as to be readily visible to prospective passengers; and
 - (b) in every tram on which the penalty fare provisions have effect, in such a position as to be readily visible to passengers travelling on that tram.
- (2) A warning notice posted by virtue of subsection (1) shall (however expressed) indicate the circumstances (as provided in section 45 (Penalty fares)) in which passengers may be liable to pay a penalty fare and shall state the amount of the penalty fare.

49 Supplementary provisions

- (1) A passenger who is required to pay a penalty fare shall, unless the passenger pays immediately, and in cash, the amount of the penalty fare to an authorised person requiring such payment, give to that authorised person, if that person requires the passenger to do so, the name and address of the passenger; and any person failing to do so shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.
- (2) Where an authorised person requires any passenger to do anything pursuant to any provision of this Act, the authorised person shall, if so requested by the passenger concerned, produce to that passenger a duly authenticated document showing that person's authority, and a requirement by an authorised person shall be of no effect if, as respects that requirement, the authorised person fails to comply with this subsection.

50 Exclusion of double liability

- (1) Where a passenger has become liable to pay a penalty fare in respect of any journey (referred to in this section as "the relevant journey"), no proceedings may be brought against such a passenger for any of the offences mentioned in subsection (2) before the end of the period mentioned in section 45(3) (Penalty fares), and no such proceedings may be brought after the end of that period if—
 - (a) the passenger has paid the penalty fare to the authorised undertaker before the end of that period; or
 - (b) an action has been brought against the passenger for the recovery of that fare.
- (2) The offences mentioned in subsection (1) are—

Status: This is the original version (as it was originally enacted).

- (a) any offence under any byelaws made by the authorised undertaker involving a failure to obtain or produce a fare ticket or general travel authority for the relevant journey; and
 - (b) any offence under section 25(3) (Regulation of the conduct of passengers) of the Public Passenger Vehicles Act 1981 (c. 14) of contravening or failing to comply with any provision of regulations for the time being having effect by virtue of that section by failing to pay the fare properly payable for the relevant journey or any part of it.
- (3) If proceedings are brought against any such passenger for any such offence the liability to pay the penalty fare shall cease, and if it has been paid, the authorised undertaker shall be liable to repay to the passenger an amount equal to the amount of that fare.