

2022 No. 1094

TRANSPORT, ENGLAND

The Railways (Penalty Fares) (Amendment) Regulations 2022

<i>Made</i>	- - - -	<i>25th October 2022</i>
<i>Laid before Parliament</i>		<i>26th October 2022</i>
<i>Coming into force-</i>		<i>23rd January 2023</i>

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 130(1) to (4), 130(7) and 143(4) of the Railways Act 1993(a).

The Secretary of State has consulted with the Mayor of London in accordance with section 130(9A) of the Railways Act 1993.

Citation, commencement, extent and application

1. These Regulations—

- (a) may be cited as the Railways (Penalty Fares) (Amendment) Regulations 2022;
- (b) come into force on 23rd January 2023;
- (c) extend to England and Wales; and
- (d) apply in relation to England.

Amendment of the Railways (Penalty Fares) Regulations 2018

2. The Railways (Penalty Fares) Regulations 2018 (b) are amended in accordance with regulations 3 to 12.

Amendment of regulation 3

3. In regulation 3—

- (a) after the definition of “identification number” insert—

““in respect of England” means, in relation to railway passenger services, a service which is not a service in respect of which the Welsh Ministers have the power to make penalty fares regulations under section 130(1) of the Railways Act 1993 (read with section 130(1ZA) to (1ZD) of that Act);”;
- (b) after the definition of “preceding train” insert—

(a) 1993 c. 43; section 130 was amended by section 47 of, and Part 1 of Schedule 1 to, the Railways Act 2005 (c. 14) and by S.I. 2018/631, which inserted subsections (1ZA)-(1ZF). There are other amendments to sections 130 and 143 not relevant to these Regulations.
(b) S.I. 2018/366.

““time on appeal” means the period beginning with the day on which an appeal is made under regulation 16 and ending on the day on which there is final disposal of or withdrawal of the appeal;”.

Amendment of regulation 5

4.—(1) After regulation 5(2), insert—

“(2A) in respect of England, the information provided by the collector must also include—

(a) in respect of the amount of the penalty fare—

(i) the reduction in the amount of the penalty fare if it is paid within 21 days beginning with the day following the day on which the penalty fare is charged; and

(ii) the fact that the 21 days to pay the reduced amount of the penalty fare does not include any time on appeal;

(b) where the penalty fare authorises a person to travel, the station to which the penalty fare authorises the person to travel.”.

(2) In regulation 5(5), for the words “Subject to paragraph (6)”, substitute “Subject to paragraphs (5A) and (6)”.

(3) After regulation 5(5), insert—

“(5A) In respect of England, the penalty fare charged under paragraph (1) to a person travelling by or present on a train authorises a person to travel to—

(a) a station in England at which the train is due to make a scheduled call that they may specify, if the collector considers that this is reasonable in all the circumstances; or

(b) otherwise, the next station at which the train is due to make a scheduled call.”.

(4) In regulation 5(6), at the beginning, insert the words “Subject to paragraph (5A),”.

(5) In regulation 5(8), at the beginning, insert the words “Subject to paragraph (8A),”.

(6) After regulation 5(8) insert—

“(8A) in respect of England, 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—

(a) where they do not intend to board a train for the purpose of travel, to leave the compulsory ticket area and exit the station of which the compulsory ticket area forms part;

(b) where they do intend to board a train for the purpose of travel, to board a train that calls at that station, and to travel—

(i) to a station in England at which that train is due to make a scheduled call that they may specify, if the collector considers that this is reasonable in all the circumstances; or

(ii) otherwise, to the next station at which that train is due to make a scheduled call.”.

Amendment of regulation 9

5.—(1) In regulation 9(1), at the beginning, insert the words “Subject to paragraph (1A),”.

(2) After regulation 9(1), insert—

“(1A) In respect of England, where a penalty fare is charged under regulation 5(1) to a person travelling by, present on, or leaving a train, the amount of the penalty fare is—

- (a) £100 plus the price of the full single fare applicable, or
- (b) if paid before the end of the period of 21 days beginning with the day following the day on which the penalty fare is charged, £50 plus the price of the full single fare applicable.

(1B) In calculating the period referred to in paragraph (1A)(b) no account is to be taken of any time on appeal.”.

(3) After regulation 9(2), insert—

“(2A) In paragraph (1A), “the full single fare applicable” is the full single fare for the journey in question from the boarding station to the station that the penalty fare authorises the person to travel to under regulation 5(5A).”.

(4) In regulation 9(3), for the words “In paragraph (2)” substitute “In paragraph (2) and (2A)”.

(5) In regulation 9(4), at the beginning, insert the words “Subject to paragraph (4A).”.

(6) After regulation 9(4), insert—

“(4A) In respect of England, where a person present in or leaving a compulsory ticket area, other than as a result of leaving a train that arrived at the compulsory ticket area, is charged a penalty fare under regulation 5(1), the amount of the penalty fare is—

- (a) where that person intends to board a train for the purpose of travel—
 - (i) £100 plus the price of the full single fare applicable, or
 - (ii) if paid before the end of the period of 21 days beginning with the day following the day on which the penalty fare is charged, £50 plus the price of the full single fare applicable;
- (b) where that person does not intend to board a train for the purpose of travel—
 - (i) £100, or
 - (ii) if paid before the end of the period of 21 days beginning with the day following the day on which the penalty fare is charged, £50.

(4B) In calculating the period referred to in paragraph (4A)(a)(ii) or (b)(ii) no account is to be taken of any time on appeal.”.

(7) After regulation 9(5) insert—

“(5A) In paragraph (4A)(a) “the full single fare applicable” is the full single fare for the journey in question from the boarding station to the station that the penalty fare authorises the person to travel to under regulation 5(8A)(b).”.

Amendment of regulation 11

6.—(1) In regulation 11(2), at the beginning, insert the words “Subject to paragraph (2A).”.

(2) After regulation 11(2), insert—

“(2A) If a person to whom paragraph (1) applies has paid a penalty fare calculated in accordance with regulation 9(1A) or (4A), or part of such penalty fare, the operator on whose behalf the penalty fare was charged must refund the person any amount paid that exceeds the amount of the full single fare applicable for their journey within the period of 10 working days, beginning with the day on which proceedings are brought.”.

(3) After regulation 11(4)(b), insert—

“(c) in respect of England, section 11 of the Fraud Act 2006.”.

Amendment of regulation 13

7.—(1) In regulation 13(1), after the words “name and address”, insert “, and, in respect of England, their date of birth,”;

(2) In regulation 13(2), after the words “name and address”, insert “, or, in respect of England, their date of birth,”.

Amendment of regulation 14

8.—(1) In regulation 14(3), at the beginning, insert the words “Subject to paragraph (3A),”.

(2) After regulation 14(3) insert—

“(3A) If a person to whom paragraph (3) applies has paid a penalty fare calculated in accordance with regulation 9(1A) or (4A), or part of such penalty fare, the operator on whose behalf the penalty fare was charged must refund that person any amount paid that exceeds the amount of the full single fare applicable for their journey within the period of 10 working days, beginning with the day on which the operator knows that paragraph (4) applies.”.

Amendment of regulation 16

9.—(1) In regulation 16(11), at the beginning, insert the words “Subject to paragraph (11A),”.

(2) After regulation 16(11) insert—

“(11A) If an appeal is against a penalty fare calculated in accordance with regulation 9(1A) or (4A), where the relevant Appeal Panel—

- (a) notifies the operator that an appeal has been allowed; or
- (b) fails to adhere to the time period specified in paragraph 6 of schedule 2, the appellant is not liable to pay the penalty fare in question and is only liable to pay the full single fare applicable for their journey.”.

(3) After regulation 16(12) insert—

“(12A) If the appellant referred to in paragraph (11A) has paid the penalty fare, or any part of it, the operator on whose behalf the penalty fare was charged must repay to the appellant any amount paid that exceeds the amount of the full single fare applicable for their journey within the period of 10 working days, beginning with whichever is the earlier of—

- (a) the day on which that operator receives notification that the appeal has been allowed; or
- (b) the day on which the time period specified in paragraph 6 of Schedule 2 expires.”.

Amendment of regulation 17

10.—(1) In regulation 17(8), at the beginning, insert the words “Subject to paragraph (8A),”.

(2) After regulation 17(8) insert—

“(8A) If an appeal is against a penalty fare calculated in accordance with regulation 9(1A) or (4A), where the relevant Appeal Panel—

- (a) notifies the operator that an appeal has been allowed; or
- (b) fails to adhere to the time period specified in paragraph 6 of Schedule 2, the appellant is not liable to pay the penalty fare in question and is only liable to pay the full single fare applicable for their journey.”.

(3) After regulation 17(9) insert—

“(10) If the appellant referred to in paragraph (8A) has paid the penalty fare, or part of it, the operator on whose behalf the penalty fare was charged must repay to the person any amount paid that exceeds the amount of the full single fare applicable for their journey within the period of 10 working days, beginning with whichever is the earlier of—

- (a) the day on which that operator receives notification that the appeal has been allowed; or
- (b) the day on which the time period specified in paragraph 6 of Schedule 2 expires.”.

Amendment of regulation 18

- 11.**—(1) In regulation 18(8), at the beginning, insert the words “Subject to paragraph (8A),”.
- (2) After regulation 18(8), insert—
- “(8A) If an appeal is against a penalty fare calculated in accordance with regulation 9(1A) or (4A), where the relevant Final Appeal Panel—
- (a) notifies the operator that an appeal has been allowed; or
 - (b) fails to adhere to the time period specified in paragraph 15(d) of Schedule 2, the appellant is not liable to pay the penalty fare in question and is only liable to pay the full single fare applicable for their journey.”.
- (3) After regulation 18(9), insert—
- “(10) If the appellant referred to in paragraph (8) has paid the penalty fare, or part of it, the operator on whose behalf the penalty fare was charged must repay to the person any amount paid that exceeds the amount of the full single fare applicable for their journey within the period of 10 working days, beginning with whichever is the earlier of—
- (a) the day on which that operator receives notification that the appeal has been allowed; or
 - (b) the day on which the time period specified in paragraph 6 of schedule 2 expires.”.

Amendment of Schedule 1

- 12.**—(1) In paragraph 1(1)(d) of Schedule 1, at the beginning, insert the words “subject to paragraph (da),”.
- (2) After paragraph 1(1)(d) of Schedule 1, insert—
- “(da) in stations in England, the wording “A Penalty Fare is £100 plus the price of the full single fare applicable for your intended journey. However, if it is paid within 21 days, the Penalty Fare is reduced to £50 plus the price of the single fare applicable”;”.
- (3) In paragraph 2(1)(d) of Part 1 of Schedule 1, at the beginning, insert the words “subject to paragraph (da)”.
- (4) After paragraph 2(1)(d) of Part 1 of schedule 1, insert—
- “(da) in stations in England, the wording “A penalty fare is £100 (reduced to £50 if it is paid within 21 days) plus, if you intend to travel, the full single fare applicable to your journey”;”.

Signed by authority of the Secretary of State for Transport

25th October 2022

Kevin Foster
Minister of State
Department for Transport

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Railways (Penalty Fares) Regulations 2018 (S.I. 2018/366) which make provision for the charging of penalty fares for the failure to produce, when required to do so, a ticket or other authority authorising a person to travel by train or to be present in a compulsory ticket area at a station.

These Regulations apply in England, and in Wales except to the extent that the power to make penalty fares has been devolved to the Welsh Ministers. In Regulation 3(a) the term “In respect of England” is used to set out where the new Regulations apply; in summary they apply in England

and in respect of trains that start in England and go into Wales. The Railways (Penalty Fares) Regulations 2018 will continue to apply unamended in other cases, where the Secretary of State does not have power to make amendments. Regulation 5(2) provides that in cases where a person is given a penalty fare while aboard a train (as opposed to in a compulsory ticket area at a station) these Regulations increase the amount of the penalty fare from £20 (or the cost of the full single fare, whichever is higher) to £100 plus the cost of the full single fare applicable. This penalty fare reduces to £50 plus the cost of the full single fare applicable if it is paid within 21 days.

Regulation 5(6)(a) provides that in cases where a person is given a penalty fare while in a compulsory ticket area at a station (as opposed to aboard a train) and intends to board a train, these Regulations increase the amount of the penalty fare from £20 (or twice the cost of the full single fare applicable, whichever is higher) to £100 plus the cost of the full single fare applicable. This penalty fare reduces to £50 plus the cost of the full single fare if it is paid within 21 days.

Regulation 5(6)(b) provides that in cases where a person is given a penalty fare while in a compulsory ticket area at a station (as opposed to aboard a train) and do not intend to board a train, these Regulations increase the amount of the penalty fare from £20 to £100. This penalty fare reduces to £50 if it is paid within 21 days.

Regulation 3(b) provides for the “clock to stop” on this 21 days to pay the lower penalty fare, if a person appeals against the penalty fare. The 21 days will restart when the person’s appeal has either been finally disposed of or withdrawn.

Regulations 9 to 11 provide that if a person is charged a penalty fare, and successfully appeals against it, these Regulations make provision for the operator to repay the surcharge aspect of the penalty fare (they would not be refunded the “full single fare applicable” element, as they would have had to purchase this in any case).

Regulation 4(3) provides that where a person is charged a penalty fare while on a train, the penalty fare will act as authority to travel to an intended destination served by that train.

Regulation 4(6) provides that where a person is charged a penalty fare while in a compulsory ticket area, these Regulations make provision for the penalty fare to act as authority to either leave the station (if they don’t intend to travel) or to board a train travel to an intended destination served by that train (if they do intend to travel).

Regulation 4(1) updates the information that a collector must give when charging a penalty fare, to include requirements to quote the reduction of the amount of the penalty fare if it is paid within 21 days and the fact that this does not include any time when an appeal is being processed.

In Regulation 11 of The Railways (Penalty Fares) Regulations 2018, certain criminal offences are listed. When a person is charged with an offence under them they cannot be charged a penalty fare as well. Regulation 6(3) of these Regulations updates this list to include the Fraud Act 2006 (c. 35).

Regulation 12 also updates the wording required to be included on the notices train companies are required to display, informing people of penalty fares.

Regulation 12 also imposes a new requirement for a person, in respect of England, to give their date of birth when they are issued with a penalty fare.

A full impact assessment has not been produced for this instrument as no significant impact on the private, voluntary or public sectors is foreseen. An explanatory memorandum has been prepared for these Regulations and is available alongside this instrument on the UK Legislation website <https://www.legislation.gov.uk/>.

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<http://www.legislation.gov.uk/id/uksi/2022/1094>

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