

Summary of Responses to the Government's consultation on EU Regulation 181/2011 on bus and coach passenger rights.

The EU Regulation on bus and coach passenger rights was published in the Official Journal of the European Union on 28 February 2011 and will apply to the entire United Kingdom from 1 March 2013.

Its full title is Regulation (EU) No 181/2011 of the European Parliament and of the Council of 16 February 2011 concerning the rights of passengers in bus and coach transport and amending Regulation (EC) No 2006/2004.

The Regulation includes provisions on:

- non-discriminatory ticket prices and conditions;
- compensation and assistance in the event of accidents;
- rights of disabled people and people with reduced mobility;
- passenger rights in the event of cancellation or delay;
- information for passengers and handling of complaints;
- enforcement and national enforcement bodies.

A final version of the EU Regulation can be found here: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:055:0001:0012:EN:PDF>

Similar European legislation already applies for transport by air and rail and came into force for maritime transport in December 2012.

All provisions of the EU Regulation will apply to regular domestic and international passenger services 250km (155 miles) or longer, subject to exemptions. A limited number of provisions of the EU Regulation will also apply to regular services shorter than 250km - these are mandatory and, with the exception of disability awareness training for drivers, cannot be exempted. A very limited number of provisions also apply to occasional services (private hire and tours) and these cannot be exempted.

Whilst the EU Regulation is “directly applicable” (i.e. it will have automatic and immediate legal force in the UK) Member States remain responsible for making decisions on several issues.

In light of this, the Department for Transport carried out a 12 week consultation exercise between 18th July – 11th October 2012 seeking views on the use of available exemptions, enforcement arrangements and designating terminals where guaranteed assistance is provided to disabled passengers.

A copy of this document can be found on the ‘GOV.uk’ website here:

<https://www.gov.uk/government/consultations/european-union-regulation-181-2011-concerning-bus-and-coach-passenger-rights>

The consultation exercise received a total of 208 responses. Of these, 182 took the form of an internet campaign run by the Royal National Institute of Blind People (RNIB), specifically objecting to the proposed exercise of the available exemption for drivers from the requirement to undertake mandatory disability awareness training. The remaining responses included contributions from the bus and coach industry, charities and other important industry stakeholders. Below is a list of those who responded to the consultation.

Mobility and Access Committee for Scotland (MACS)
Capability Scotland
Association of British Travel Agents (ABTA)
Passenger Focus
National Express
Trading Standards Institute (TSI)
TravelWatch North West
Disabled Persons Transport Advisory Committee (DPTAC)
Scottish Accessible Transport Alliance (SATA)
Age UK
Arriva
Transport For All
Passenger Transport Executive Group (PTEG)
Bus Users UK
Which?
First Group
Visit England
Royal National Institute of Blind People (RNIB)
Guide Dogs for the Blind
Confederation of Passenger Transport (CPT)
TravelWatch South West
London TravelWatch
Diverse Cymru
Tyne and Wear Passenger Transport Executive (Nexus)
Sense
Go-Ahead
Association of Transport Coordinating Officers (ATCO)

This document summarises the responses received on each question asked in the consultation and gives the decision in terms of taking the issues forward.

The Department will work with the Confederation of Passenger Transport (CPT) and other stakeholders to ensure bus/coach operators, travel agents, tour operators and terminal managing bodies are provided with all the necessary information to help them comply with the new regulation.

CHAPTER 1 – USE OF AVAILABLE EXEMPTIONS

Q1 – Are you aware of any alternative sources of information on the number of disabled passengers and persons with reduced mobility that travel on regular services 250km (155 miles) or longer?

Outcome: No alternative sources of information were identified.

Decision: We will continue to assume that information provided by the Confederation of Passenger Transport (CPT) remains the most reliable source for disabled passenger numbers.

Q2 – Do you (as a carrier) currently operate regular bus/coach services of 250km (155 miles) or longer or (as a passenger) are you aware of carriers in Great Britain that run such services?

Outcome: No additional carriers were identified that operate services of 250km or more. We had previously identified National Express, Megabus, Scottish Citylink and First Group (alongside a limited number of smaller businesses) as operators that run bus/coach services over 250km.

Decision: We will continue to base assumptions on information from the Public Service Vehicle survey and research carried out by officials.

Q3 - Do you agree with the proposed approach to apply this exemption (all domestic regular services) in full for 4 years? If not, please state your specific objection(s). Should only some of the Articles be excluded from the exemption?

Outcome: 21 responses, 8 agreed, 13 disagreed. The main concerns raised on the application of this exemption were the costs to passengers (including disabled passengers and those with restricted mobility) who will not benefit from all of the guaranteed rights under the EU Regulation until at least 2017.

Decision: The Department acknowledges that applying exemptions to delay the application of this EU Regulation will involve some costs to passengers. However, we remain of the opinion that any disadvantage to passengers will be mitigated by the requirements of existing domestic contract and equality law and by the fact that most major long-distance operators already provide a similar quality of service to that required by the EU Regulation.

We will continue to follow the Government's guiding principle to ensure that UK businesses are not put at a competitive disadvantage compared with their European counterparts by making full use of all available exemptions.

Q4 - Are you aware of any GB bus/coach services over 250km (155 miles) in length that include at least one scheduled stop outside the EU?

Outcome: Consultees identified services run by Eurolines from Great Britain to Switzerland (Zurich/Geneva/Basel) and Croatia (Split/Zagreb) which operate with at least one scheduled stop outside of the European Union.

Decision: We acknowledge there are a very limited number of services operated by Great British Bus/Coach operators with at least one scheduled stop outside the EU. In light of this, we remain committed to exempting any bus/coach service operated by a GB carrier where part of route outside the EU for 4 years (see Q5 below).

Q5 - Do you agree with the proposed approach to apply this exemption (part of service route outside the EU) in full for 4 years? If not, what specific objection(s) do you have to the application of this exemption?

Outcome: 16 responses, 8 in agreement 8 disagreed.

Decision: We will continue to follow the Government's guiding principle to ensure that UK businesses are not put at a competitive disadvantage compared with their European counterparts by making full use of all available exemptions.

Q6 - Do you agree with the Government's proposed approach to apply this exemption (Disability Awareness Training for drivers) for 5 years, with a review after the first year? If not, what specific objection(s) do you have to the application of this exemption?

Outcome: 207 responses, 196 (including 182 in the form of a campaign by RNIB) objected to the use of this exemption, 9 were in favour.

Decision: The Department will continue to follow the Government's guiding principle to ensure that UK businesses are not put at a competitive disadvantage compared with their European counterparts by making full use of all available exemptions.

The Department has agreed to write to industry representatives to encourage the completion of disability awareness training at the earliest opportunity and will review the use of this exemption after one year (March 2014).

The Confederation of Passenger Transport have estimated that across the whole bus and coach industry, approx 75% of drivers have completed some form of disability awareness training through the Driver CPC and this figure continues to rise each year.

Q7 - Do you agree with the Government's view that we are unable to make use of this exemption (all domestic services from Chapter 3 on the rights of disabled persons and persons with reduced mobility)? If not, how do you think its use could be justified?

Outcome: 18 responses, all in favour.

Decision: As it cannot always be guaranteed that the level of protection in domestic legislation will be the same as under the EU Regulation, we will not apply this exemption.

Q8 - Is there any further evidence or information (particularly in terms of monetised costs/benefits) that you think should be taken into account when drafting the Department's final Impact Assessment?

Outcome: 8 responses.

Decision: The consultation provided written evidence on the potential costs to disabled passengers of applying exemptions, the benefits associated with bus improvements leading to greater patronage and how a possible negative public reaction to the use of exemptions could impact on the bus/coach industry. In addition, we received data on the possible hidden costs to the bus/coach industry of applying the EU Regulation in full, including the costs of providing passenger information, managing complaints and the actual costs of employing additional staff.

The evidence provide in responses was not monetised but has been considered in the preparation of the final Impact Assessment.

CHAPTER 2 – ENFORCEMENT MEASURES

Q9 - Do you agree with the Government's proposed approach to make Traffic Commissioners the designated enforcement body for the EU Regulation in respect of bus/coach operators? If not, what specific objection(s) do you have and who do you think should have this role?

Outcome: 18 responses, 16 agreed, 2 disagreed.

Decision: Traffic Commissioners will be appointed as the designated enforcement body for the EU Regulation in respect of bus/coach operators and we will reflect this in domestic legislation.

Q10 - Government is not proposing to make any breaches of the EU Regulation a criminal offence, as we do not believe it would be proportionate. Do you agree? If not, please outline your reasons?

Outcome: 15 responses, all in agreement.

Decision: No breaches of this EU Regulation will be a criminal offence.

Q11 - The Government proposes giving Traffic Commissioners powers to issue improvement notices requiring operators to put in place procedures to comply with the EU Regulation and the ability to impose financial penalties and/or attach licence conditions if deemed appropriate. Do you agree with this approach? If not, please state whether there are any options you deem more suitable?

Outcome: 18 responses, all in agreement.

Decision: Traffic Commissioners will be given sufficient powers in domestic legislation to issue improvement notices, impose financial penalties and attach licence conditions where they deem appropriate.

Q12 - With regards to the penalties that could be imposed the Government proposes that these should reflect the existing system set out in section 155 of the Transport Act 2000 where the Traffic Commissioner has discretion but the penalty must not exceed £550 multiplied by the total number of vehicles the operator is licensed to use. Do you agree with this approach? If not, do you prefer the option of having specific penalty levels for breaches of the various articles or another approach?

Outcome: 17 responses, 9 in agreement, 8 disagreed. Some responses were concerned that the £550 limit would not be enough of a deterrent for repeat offenders and that there should be scope for more severe penalties. However, we have ascertained from the industry that the current system set out in section 155 of the Transport Act 2000 works well and is familiar to both Traffic Commissioners and bus/coach operators.

Decision: The Department will apply a system whereby the penalty for bus and coach operators will be such amount as the Traffic Commissioner sees fit given the circumstances of the case but must not exceed £550 multiplied by the total number of vehicles which the operator is licensed to use.

Q13 - If you agree that the Traffic Commissioners should have discretion, do you think that £550 multiplied by the total number of vehicles which the operator is licensed to use under all the PSV operator's licences held by him is appropriate? If not, what level would you propose, please outline your reasons why?

Outcome: 13 responses, 9 in agreement, 4 disagreed.

Decision: A maximum fine of £550 multiplied by the number of vehicles which the operator is licensed to use will be used.

Q14 - If you prefer specific penalty levels being set for breaches of the various articles, do you think a standard level of penalty per article should be set or that the penalty level should reflect the seriousness of the article breached?

Outcome: 9 responses, 8 suggesting that penalties should reflect the seriousness of the breach.

Decision: The Department has noted the responses to this question. However, we have made the decision that penalty levels should be such amount as the Traffic Commissioner sees fit given the circumstances of the case, in light of the positive response to Question 12 (above).

Q14a - If you think a standard penalty level should be set per article do you agree that £1,000 is appropriate? If not, what level should be set, please give your reasons for this?

Outcome: 3 responses, all in favour of a £1000 penalty per article.

Decision: As above, penalty levels should be set by the relevant Traffic Commissioner.

Q14b - If you think the penalty level should be determined by the seriousness of the article breached, what do you think the respective levels should be and the reasons for these?

Outcome: There were no responses to this question.

Decision: As above, penalty levels should be set by the relevant Traffic Commissioner.

Q15 - If you prefer specific penalty levels being set for breaches of the various articles (rather than the Traffic Commissioner having discretion), do you agree with our proposal for the maximum penalty level to be £5,000 (similar to that for criminal fines)? If not, what level should it be, please explain your reasons for this?

Outcome: 9 responses, 6 in agreement, 3 disagreed with a maximum penalty level of £5,000.

Decision: The Department has noted the responses to this question. However, we have made the decision that penalty levels should be such amount as the Traffic Commissioner sees fit given the circumstances of the case, in light of the positive response to Question 12 (above).

Q16 - In relation to tour operators and travel agents, do you agree that local weights and measures authorities in GB should enforce this regulation against both tour operators and travel agents, ultimately by means of a civil penalty? If not, who do you think should take enforcement action in relation to the limited provisions that apply to tour operators and travel agents, and how should they do that?

Outcome: 14 responses, 13 in agreement, 1 disagreed.

Decision: We will look to appoint local weights and measures authorities as the enforcement body for this EU Regulation in respect of both tour operators and travel agents.

Q17 - Do you agree with the Government's proposed approach to make the Bus Appeals Body, London Travel watch and the Bus Passengers' Platform the designated complaints bodies for the EU Regulation? If not, what specific objection(s) do you have to the designations?

Outcome: 19 responses, 11 in agreement, 8 disagreed. A number of responses indicated support for Passenger Focus to take on this role, instead of the Bus Appeals body. However, Passenger Focus were actually in favour of our proposal. We do not feel that the Bus Appeals Body's industry funding compromises the organisation's independence and have no concerns over their ability to undertake this role.

Decision: We will look to appoint the Bus Appeals Body as the designated complaints handling body for this EU Regulation in England and Wales, with London Travel Watch and the Bus Passenger Platform undertaking the role in London and Scotland respectively.

CHAPTER 3 – DESIGNATED TERMINALS

Q18 - Do you agree with the Government's proposed criteria for assigning designated terminals? If not, what alternative approach would you suggest?

Outcome: 20 responses, 13 agreed with the proposed response, 7 disagreed.

Decision: We shall designate terminals where guaranteed assistance for disabled persons and persons with reduced mobility shall be provided when they meet the criteria of being served by at least 50,000 long-distance bus/coach services a year and by international services of 250km (155 miles) or longer. This would mean that both London Victoria and Birmingham Coach Stations are designated initially.