



Department
for Transport

Response to the Department for Transport's Public Consultation on Reviewing the Public Service Vehicles (Conduct of Drivers, Inspectors Conductors and Passengers) Regulations 1990

January 2016

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Introduction

1. In December 2011, the Department for Transport ("DfT") published its 'Red Tape Challenge - Road Transportation' (<http://www.redtapechallenge.cabinetoffice.gov.uk/themehome/road-transportation/>), which laid out proposals to amend or revoke existing Regulations in each transport sector, with the aim of cutting down unnecessary burdens on business and members of the public.
2. In response to this 'Red Tape Challenge', DfT committed to review the Public Service Vehicles (Conduct of Drivers, Inspectors, Conductors and Passengers) Regulations 1990 ("Conduct Regulations") and to remove any requirements that duplicate other legislation or can be covered more effectively by a bus or coach operator's own conditions of carriage, so long as safety and accessibility standards are maintained.
3. The Conduct Regulations outline the duties and expected behaviour of bus drivers, conductors and inspectors towards passengers on regular bus and coach services operated around Great Britain, and vice versa.
4. In advance of undertaking a public consultation, DfT carried out an informal information gathering exercise with a limited number of key stakeholders (including representatives from the bus industry, passenger bodies and disability groups) to ensure we had a correct understanding of how the existing Conduct Regulations are currently being used and how they might be improved.
5. Between 11th November and 23rd December 2014, the Department for Transport ran a six week consultation on these proposed amendments. 31 responses were received, with a mixture of support for a majority of the proposed changes and concern that removing certain legal requirements on passenger behaviour might cause confusion or have a negative impact on passenger conduct due to the lack of a legal deterrent.
6. This report summarises the responses to the consultation paper. It does not attempt to summarise all of the comments made by respondents, but all comments were considered.

1. Summary of Responses

Part One - Interpretation (Regulation 3)

- 1.1** Regulation 3 of the Conduct Regulations used to include definitions for 'disabled person', 'hearing dog', 'guide dog' and 'assistance dog'. These definitions referred to the Disability Discrimination Act 1995, which has since been superseded by the Equality Act 2010.
- 1.2** The proposal was to remove the references to both 'hearing dog' and 'guide dog' and to amend the definition of 'assistance dog' so that it cross-refers to section 173(1) of the 2010 Act.
- 1.3** Of all the suggested amendments to these Regulations, the proposal to update the definition of 'assistance received' received the most support, gaining unanimous agreement (23 in favour, none against).

Part Two - The Conduct of Drivers, Inspectors and Conductors (Regulations 4 and 5)

- 1.4** Regulations 4 and 5 of the Conduct Regulations outline the rules and restrictions on the people and equipment that drivers can interact with while their vehicle is in motion.
- 1.5** The Department's proposal was to amend and shorten Regulation 4 to simplify the rules for drivers and remove any unnecessary and repetitive text, while retaining the overall rules on safety.
- 1.6** The next proposal was to make small amendments to Regulation 5 to make it clearer and more concise. We proposed to remove the requirement in Regulation 5(3)(a) for drivers to provide their licence details to a police constable or person with reasonable cause. This is because a police constable (and DVSA examiner) is more likely to rely on

powers to request details of a driver's license under section 164 of the Road Traffic Act 1988,

- 1.7** The Department proposed removing Regulation 5(3)(b) and 5(4) in their entirety (which stated that no driver, inspector or conductor shall smoke in or on a vehicle) as this issue is covered by Section 5 of the Health Act 2006.
- 1.8** Finally, the Department also proposed the removal of Regulation 5(6) (which states that "a conductor shall not, while the vehicle is in motion and without reasonable cause, distract the driver's attention or obstruct his vision") because this is covered by employment conditions and basic training.
- 1.9** The proposed changes to Regulations 4 and 5 received significant support (20 in favour, four against). Those with an objection to these proposals felt that the specific legal requirement for drivers to provide their details to a police constable should remain in place to avoid reliance on other legislation and that restrictions on smoking should be extended to include anywhere in the vicinity of the vehicle.

Part Three - The Conduct of Passengers (Regulations 6 and 7)

- 1.10** Regulations 6 and 7 of the Conduct Regulations outline the rules and restrictions in respect of passengers travelling on public service vehicles - specifically on passenger behaviour and methods of payment. Although many of the rules for passengers outlined in Regulations 6 and 7 remain accurate and require no further attention, we proposed removing or amending those requirements that are either out of date, covered by more recent legislation or changes to operator's conditions of carriage.
- 1.11** The Department proposed to completely remove Regulation 6(1)(d) (which states that no passenger may "*smoke or carry lighted tobacco or light a match or a cigarette lighter in or on any part of the vehicle where passengers are*") as this issue is now dealt with effectively by section 5 of the Health Act 2006.
- 1.12** The removal of both Regulations 6(1)(e) and (f), which state that passengers may not "*distribute any paper or other article*

for the purpose of giving or seeking information about or comment upon any matter" or "sell or offer for sale any article" without the permission of the driver, was also proposed. This is because such actions are generally covered by each operator's conditions of carriage.

- 1.13** Regulation 7 of the Conduct Regulations deals explicitly with how passengers pay for their journey. As many changes have been made to the way payments can be made on board buses (or in advance of travel) since 1990, we proposed to update and simplify the text of this Regulation to reflect this. More specifically, we proposed to amend Regulation 7(2) to include the option of using a variety of alternative payment methods (concessionary travel pass and smartcards), rather than only paying the driver. Furthermore, we proposed the removal of Regulation 7(2)(c), which deals with making payments to conductors, due to the changing nature and lesser prominence of conductors on modern public service vehicles.
- 1.14** The proposed amendments to Regulations 6 and 7 received a more mixed response (9 in favour, 15 against). Those with an objection to these proposals expressed concern that the removal of Regulations forbidding the sale or distribution of items on board buses could lead to the harassment of passengers, with drivers powerless to prevent this and that leaving any such matter to the discretion of individual operators/drivers could lead to confusion or inconsistency. In addition, specific concerns were raised over the proposed removal of Regulation 7(2)(c), as it was argued that Conductors still play a vital role on public service vehicles and remain a viable method of collecting fares from passengers.
- 1.15** Other proposed changes to Regulations 6 and 7, including those on passengers smoking and the inclusion of additional payment methods for a bus journey, received far more support and very little opposition.

Part Four - The Conduct of Drivers and Conductors of Regulated Public Service Vehicles with Respect to Wheelchair Users and Other Disabled Persons (Regulations 11 to 17)

- 1.16** Regulations 11 to 17 of the Conduct Regulations outline the extent of responsibilities for drivers and conductors in respect of wheelchair users and disabled passengers. More specifically, the Articles explain duties for drivers and conductors when operating kneeling systems and folding/retractable steps, boarding lifts and ramps, general duties towards wheelchair users and other disabled persons, the effects of faulty or malfunctioning equipment and requirements around the display of route numbers.
- 1.17** Although the Equality Act 2010 makes it unlawful for any bus operator to discriminate against a disabled person simply because they are disabled, treat disabled people less favourably or fail to make a reasonable adjustment to the way they provide their services, we decided against proposing any specific changes in this area. This is because the Conduct Regulations provide the only detailed legal explanation, from as recently as 2002, of the specific duties and requirements for drivers and conductors in respect of all disabled passengers on a public service vehicle.
- 1.18** Our public consultation exercise sought views on this proposed approach and invited comments on how these Regulations might be amended.
- 1.19** The Department's proposal not to make any alterations to Regulations 11 to 17 received a balanced, positive response (15 in favour, 12 against). The majority of those who objected to this proposal requested that these Regulations should be amended to provide clearer rules on who should have priority when using the wheelchair space on a local bus service, following the recent Court of Appeal decision in *Paulley v First Group plc*.

2. What Happened?

- 2.1** A series of amendments to the Regulations were published on 30 June 2015, as The Public Service Vehicles (Conduct of Drivers, Inspectors, Conductors and Passengers (Amendment) (England and Wales) Regulations 2015. This amendment is available at Gov.uk. Specific changes are discussed in more detail below.
- 2.2** Regulation 3 was amended to update the definition of 'disabled persons' so that it cross-refers to the 2010 Equality Act, removes references to both 'hearing dogs' and 'guide dogs', and amends the definition of 'assistance dogs' so that it incorporates references to dogs which have been trained to guide blind and deaf persons.
- 2.3** Regulation 4 was updated to simplify the rules for drivers and to permit the use of hands-free microphones.
- 2.4** Regulation 5(3)(a) was amended to remove the obligation for bus drivers to give their licence particulars to a constable or other person having reasonable cause while retaining the requirement for drivers to provide their name and the name of their employer, if requested by a constable or other person having reasonable cause.
- 2.5** Regulation 5(3)(b) and 5(4) were removed in their entirety as the Smoke-free (Exemptions and Vehicles) Regulations 2007 (SI 2007 No. 765) more effectively address the issue of smoking.
- 2.6** Regulation 5(6) was removed in its entirety, as the role and number of conductors operating on public service vehicles has altered significantly since 1990, and also because this matter is generally covered by each operator's conditions of employment and basic training.
- 2.7** Regulation 6(1)(d) was removed in its entirety, as this issue is now dealt with effectively by the Smoke-free (Exemptions and Vehicles) Regulations 2007.
- 2.8** Regulations 6(1)(e) and (f) were removed in their entirety because these particular minor indiscretions are almost impossible to enforce in the absence of a designated

enforcement body or a civil penalty regime and we have received no evidence that these regulations are actually used in practice to prosecute passengers.

- 2.9** Regulations 7(2)(b) and (c) were updated to recognise the introduction of concessionary travel passes and smartcards.
- 2.10** Regulation 7 (2)(c), (e) and (f) were also updated to reflect new methods of payment.
- 2.11** A copy of this document will be made available on the Gov.uk website.