STATUTORY INSTRUMENTS

2018 No. 406

PUBLIC PASSENGER TRANSPORT, ENGLAND

The Public Service Vehicles (Registration of Local Services) (Franchising Schemes Transitional Provisions and Amendments) (England) Regulations 2018

Made - - - -	*26th March 2018*
Laid before Parliament	*3rd April 2018*
Coming into force - -	*24th April 2018*

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 123U(1), 123V and 160(1) of the Transport Act 2000(**1**).

Citation, commencement and application

1.—(1) These Regulations may be cited as the Public Service Vehicles (Registration of Local Services) (Franchising Schemes Transitional Provisions and Amendments) (England) Regulations 2018.

(2) These Regulations come into force on 24th April 2018.

(3) These Regulations apply in relation to local services(**2**) that have stopping places(**3**) in England only.

Interpretation

2. In these Regulations—

"the 1985 Act" means the Transport Act 1985(**4**);

"the 2000 Act" means the Transport Act 2000;

"the 1986 Regulations" means the Public Service Vehicles (Registration of Local Services) Regulations 1986(**5**);

(**1**) 2000 c.38; in relation to England and Wales, sections 123U and 123V were inserted by section 4 of the Bus Services Act 2017 (c.21).
(**2**) By virtue of section 162(3) of the Transport 2000 ("the 2000 Act"), the term "local service" has the same meaning as in section 2(1) of the Transport Act 1985 ("the 1985 Act").
(**3**) By virtue of section 162(3) of the 2000 Act, the term "stopping place" has the same meaning as in section 137(1) of the 1985 Act.
(**4**) 1985 c. 67.
(**5**) S.I. 1986/1671; relevant amending instruments are S.I. 2004/10, 2009/443, 2009/3245 and 2013/1644.

"the 2009 Regulations" means the Public Service Vehicles (Registration Restrictions) (England and Wales) Regulations 2009(**6**);

"cut-off date" means the date that is 70 days before the latest date;

"excepted service" means a local service which is excepted from regulation arising because of a franchising scheme(**7**) by any provision of that scheme that is made under section 123H(5) of the 2000 Act;

"exempt service" means a service using a vehicle under a permit granted under section 22 of the 1985 Act (community bus permits);

"expansion notice" means a notice of a decision to vary a franchising scheme pursuant to section 123M(1) of the 2000 Act (variation of scheme) by adding an area to the existing franchising scheme area;

"franchising scheme area" means the area to which a franchising scheme relates;

"latest date" means the latest date on which any area in which a service has a stopping place ceases to be part of a franchising scheme as a result of a variation of the scheme pursuant to section 123M(1) of the 2000 Act or as a result of a revocation of the scheme pursuant to section 123N(1)(revocation of a scheme) of that Act;

"registration" means the registration of the prescribed particulars of a service pursuant to section 6 of the 1985 Act;

"registration restrictions" means restrictions imposed under section 113D(1) or 114(3A) of the 2000 Act (advanced quality partnership schemes and quality partnership schemes);

"service" has the same meaning as in section 6(1) of the 1985 Act;

"traffic commissioner" means a commissioner appointed under section 4 of the Public Passenger Vehicles Act 1981(**8**); and

"transitional notice" means a notice published under regulation 4(2).

Requirements when a franchising scheme is made or varied to increase the area to which it relates

3. A franchising authority or authorities(**9**) must include in their franchising scheme and any expansion notice—

(a) the date on which a local service may first be provided under any local service contract(**10**) in the franchising scheme area or in the area added pursuant to an expansion notice, as the case may be; or

(b) where the franchising scheme or expansion notice provides for scheme sub-areas(**11**), the date on which a local service may first be provided under a local service contract in each scheme sub-area,

(**6**) S.I. 2009/443; amended by S.I. 2013/1644.

(**7**) By virtue of section 162(1) of the Transport Act 2000 ("the 2000 Act"), as amended by paragraph 23 of Schedule 2 to the Bus Services Act 2017, "franchising scheme" is to be construed in accordance with section 123A(3) of the 2000 Act, inserted by section 4 of the Bus Services Act 2017.

(**8**) 1981 c.14. Section 4 was substituted by section 3(2) of the Transport Act 1985. It was also amended by sections 2(1) to (6) and 3(2)(a) of the Local Transport Act 2008 (c.26).

(**9**) The term "franchising authority or authorities" is used in section 123A of the 2000 Act. A franchising scheme may be made by a single authority or by two or more authorities acting jointly. By virtue of section 162(1) of the 2000 Act, as amended by paragraph 23 of Schedule 2 to the Bus Services Act 2017, "franchising authority" has the meaning given in section 123A(4) of the 2000 Act, inserted by section 4 of the Bus Services Act 2017. No Regulations have been made under section 123A(4).

(**10**) By virtue of section 162(1) of the 2000 Act as amended by paragraph 23 of Schedule 2 to the Bus Services Act 2017, "local service contract" has the meaning given in section 123A(5) of the 2000 Act, inserted by section 4 of the Bus Services Act 2017.

(**11**) See section 123H(3)(a) of the 2000 Act for the meaning of "scheme sub-area".

and must update the scheme and any notice forthwith if any such date is changed pursuant to section 123I (postponement of local service contracts) or section 123L (exceptions to section 123K) of the 2000 Act.

Notice periods in relation to a variation or cancellation of a registration before a franchising scheme is in operation

4.—(1) This regulation applies to an application—

(a) to vary or cancel the registration of a service that—

(i) has one or more stopping places in a franchising scheme area;

(ii) is not an excepted service;

(iii) is not an exempt service; and

(iv) is not one in relation to which registration restrictions have effect, and

(b) that is accepted by a traffic commissioner before section 123J(2) of the 2000 Act has effect in relation to that area.

(2) Subject to paragraphs (3) and (4), a franchising authority or authorities may publish a notice which provides that the period referred to in section 6(8)(a) of the 1985 Act, in relation to an application referred to in paragraph (1), is the period specified in the notice, such period to begin with the date on which a traffic commissioner accepts the application and not to exceed 112 days.

(3) Subject to paragraph (4), where an application—

(a) relates to a service that has one or more stopping places in more than one franchising scheme area;

(b) is accepted by a traffic commissioner before section 123J(2) has effect in relation to any such area; and

(c) has more than one transitional notice published under paragraph (2) relating to it,

the period referred to in section 6(8)(a) of the 1985 Act is the longest period specified in any such transitional notice.

(4) Where an application, to which one or more transitional notices relate, is to vary a registration only—

(a) to enable the operator of a service to comply with a traffic regulation condition or any other provision made by or under an enactment prohibiting or restricting the use of any road by vehicular traffic; or

(b) in respect of a change in the operator's address,

the date on which the period referred to in section 6(8)(a) of the 1985 Act ends is the date given to a traffic commissioner by the operator as the effective date for the variation, and accordingly section 6(8)(b) of the 1985 Act does not have effect.

(5) Where paragraph (2), (3) or (4) applies, regulations 5(2)(b) and 7(1)(b) of the 1986 Regulations do not apply.

(6) When a franchising authority or authorities publish a transitional notice they must publish it at the same time as they—

(a) publish a franchising scheme under section 123H(1) of the 2000 Act; or

(b) publish an expansion notice,

as the case may be.

(7) When a franchising authority or authorities publish a transitional notice they must give notice of the publication to a traffic commissioner within the period of 14 days beginning with the date on which the transitional notice is published.

(8) Subject to paragraph (9), a franchising authority or authorities may specify different periods in a transitional notice for different cases and, in particular, may specify—

(a) different periods depending on the number of stopping places a service has in a franchising scheme area; or

(b) that a period expires immediately after a traffic commissioner accepts an application.

(9) A franchising authority or authorities must specify the same period in relation to applications of the same type for each scheme sub-area.

(10) For the purposes of this regulation, "traffic regulation condition" has the same meaning as in section 7(1) of the 1985 Act.

Short notice registration before a franchising scheme is in operation

5.—(1) Where an application for registration—

(a) relates to a service that—

(i) has one or more stopping places in a franchising scheme area;

(ii) is not an excepted service in every franchising scheme area in which it has a stopping place;

(iii) is not an exempt service;

(iv) is not one in relation to which registration restrictions have effect; and

(v) is to be provided under an agreement between a franchising authority or authorities and a person who undertakes to provide a service on terms which may include provision for the making of payments to that person by the authority or authorities, and

(b) is accepted by a traffic commissioner before section 123J(2) of the 2000 Act has effect in relation to the franchising scheme area or, where the service has a stopping place in more than one franchising scheme area, any one of those areas,

paragraphs (2) and (3) have effect.

(2) Section 6 of the1985 Act has effect with the following modifications—

(a) in subsection (2)(b), for the words "period of notice in relation to the registration has expired" substitute "period of notice beginning with the date the application is accepted by a traffic commissioner and ending with the date given to a traffic commissioner by the operator as the date on which the service will begin has expired"; and

(b) subsection (3) is omitted.

(3) Regulations 5(1) and 7(1)(a) of the 1986 Regulations do not apply.

Effect of a franchising scheme on an application for registration, variation or cancellation

6. Where an application for registration, or the variation or cancellation of a registration, is received by a traffic commissioner before section 123J(2) of the 2000 Act has effect in relation to any franchising scheme area in which the service to which the application relates has a stopping place, and the service—

(a) is not an excepted service in every franchising scheme area in which it has a stopping place; and

(b) is not an exempt service,

a traffic commissioner must not accept that application after section 123J(2) has effect in any such area.

Application period for a registration, variation or cancellation when a franchising scheme is in operation

7.—(1) Where sections 6 to 9 of the 1985 Act do not have effect in relation to a franchising scheme area by virtue of section 123J of the 2000 Act, the provisions of the 1985 Act that are set out in paragraph (2) nevertheless have effect.

(2) The provisions of the 1985 Act are—

(a) (i) section 6(1) to (1E), (2A), (4) to (7), and

(ii) section 6A, and

(b) paragraph (a) of section 6(2) (prescribed particulars) and section 6(9) to the extent that they introduce regulations 1 to 4, 9A, 10 and 12 of the 1986 Regulations, and the 2009 Regulations; which provisions also have effect.

(3) A traffic commissioner may, by virtue of paragraphs (1) and (2), accept an application for registration, or the variation or cancellation of a registration, where such an application—

(a) relates to a service that—

(i) has a stopping place in a franchising scheme area;

(ii) is not an excepted service in every franchising scheme area in which it has a stopping place;

(iii) is not an exempt service, and

(b) is received by a traffic commissioner after section 123J(2) has effect in relation to the franchising scheme area, or where the service has a stopping place in more than one franchising scheme area, any one of those areas.

(4) Subject to paragraph (5), a traffic commissioner must not accept any application to which paragraph (3) relates which is received later than the cut-off date.

(5) A traffic commissioner must accept an application to which paragraph (3) relates where such an application is in relation to a service which is to be provided under an agreement between a franchising authority or authorities and a person who undertakes to provide a service on terms which may include provision for the making of payments to that person by the authority or authorities.

Notice period in relation to a registration after a franchising scheme is in operation

8.—(1) Where an application for registration—

(a) is one to which regulation 7(3) relates,

(b) is not one in respect of a service in relation to which registration restrictions have effect, and

(c) is received by a traffic commissioner before the cut-off date,

the period of notice referred to in section 6(2)(b) of the 1985 Act, when that section applies by virtue of an area ceasing to be a franchising scheme area, expires on the latest date, and paragraphs (2) and (3) have effect.

(2) Section 6(3) of the 1985 Act is omitted.

(3) Regulations 5(1) and 7(1)(a) of the 1986 Regulations do not apply.

Notice period in relation to a variation or cancellation of a registration after a franchising scheme is in operation

9.—(1) Where an application to vary or cancel a registration—

(a) is one to which regulation 7(3) relates,