STATUTORY INSTRUMENTS

2018 No. 366

TRANSPORT

The Railways (Penalty Fares) Regulations 2018

Made - - - -	*12th March 2018*
Laid before Parliament	*15th March 2018*
Coming into force - -	*6th April 2018*

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 130(1) to (4) and (7) and 143(3) and (4) of the Railways Act 1993(**1**).

PART 1

Preliminary

Citation, commencement and extent

1. These Regulations—

(a) may be cited as the Railways (Penalty Fares) Regulations 2018;

(b) come into force on 6th April 2018; and

(c) extend to England and Wales and Scotland.

Application

2.—(1) These Regulations apply in relation to—

(a) a railway passenger service(**2**) within the scope of paragraph (2); and

(b) any station(**3**) at which a railway passenger service within the scope of paragraph (2) makes a scheduled call(**4**).

(**1**) 1993 c. 43; section 130 was amended by section 47 of, and Part 1 of Schedule 1 to, the Railways Act 2005 (c. 14). There are other amendments to sections 130 and 143 not relevant to this S.I. See section 130(12) for the meaning of "collectors" and "prescribed".

(**2**) By virtue of section 130(12) of the Railways Act 1993 the definition of "railway passenger service" in section 83(1) of that Act applies for the purposes of section 130.

(**3**) By virtue of section 130(12) of the Railways Act 1993 the definition of "station" in section 83(1) of that Act applies for the purposes of section 130 subject to the further definition in section 130(12).

(**4**) By virtue of section 130(12) of the Railways Act 1993 the definition of "scheduled call" in section 83(1) of that Act (inserted into that subsection by paragraph 37(3) of Schedule 1 to the Railways Act 2005) applies for the purposes of section 130.

(2) A railway passenger service is within the scope of this paragraph unless it is—

(a) provided under a Scottish franchise agreement(**5**);

(b) a Scotland-only service(**6**);

(c) a service the provision of which is secured by the Scottish Ministers; or

(d) provided by—

(i) Transport for London or any of its subsidiaries; or

(ii) any person in pursuance of an agreement entered into by Transport for London under section 156(2) or (3)(a) of the Greater London Authority Act 1999(**7**), or in pursuance of a transport subsidiary's agreement(**8**).

Interpretation

3.—(1) In these Regulations—

"the 1994 Regulations" means the Railways (Penalty Fares) Regulations 1994(**9**);

"Appeal Panel" means a body, which complies with the requirements of regulation 15(1), that considers appeals under regulations 16 and 17 and "the relevant Appeal Panel" means, in relation to an operator, the Appeal Panel that considers appeals under those regulations against penalty fares charged on behalf of that operator;

"Appeal Procedure" means the procedure specified in Schedule 2;

"authorising operator", in relation to a collector, means the operator that authorised the collector to charge penalty fares under regulations 10(5) or 10(6);

"compulsory ticket area" means any area at a station which a person must not enter or be present in without being able to produce—

(a) a valid travel ticket authorising travel on a train arriving at or departing from that area; or

(b) a platform ticket authorising their entry to or presence in that area;

"Final Appeal Panel" means a body, which complies with the requirements of regulation 15(2), that considers appeals under regulation 18 and "the relevant Final Appeal Panel" means, in relation to an operator, the Final Appeal Panel that considers appeals under that regulation against penalty fares charged on behalf of that operator;

"identification number", in relation to a collector, means a unique number or alphanumeric code assigned by the authorising operator to the collector for identification purposes;

"operator", in relation to any train, means the person having the management of that train for the time being and, in relation to any station, means the person having the management of that station for the time being, and "operated" shall be construed accordingly;

"penalty fare number" means a number or alphanumeric code which is unique to an individual penalty fare charged on behalf of any operator;

"platform ticket" means a ticket or alternative authorisation which permits a person to enter or be present in a compulsory ticket area otherwise than for the purpose of travel;

(**5**) By virtue of section 130(12) of the Railways Act 1993 the definition of "Scottish franchise agreement" in section 83(1) of that Act (inserted into that subsection by paragraph 37(3) of Part 2 of Schedule 1 to the Railways Act 2005) applies for the purposes of section 130.

(**6**) By virtue of section 130(12) of the Railways Act 1993 the definition of "Scotland-only service" in section 83(1) of that Act (inserted into that subsection by paragraph 37(3) of Part 2 of Schedule 1 to the Railways Act 2005) applies for the purposes of section 130.

(**7**) 1999 c. 29.

(**8**) "Transport subsidiary's agreement" is defined in section 169 of the Greater London Authority Act 1999.

(**9**) S.I. 1994/576, amended by S.I. 2005/1095.

"preceding train", in relation to a train which a person is travelling by, present on or leaving, means any train—

(a) the person travelled by, as part of the same journey, before changing to that train; and

(b) which was operated by the same operator as that train;

"travel ticket" means a ticket or other authority which authorises a person to make a journey on a railway passenger service to which these Regulations apply;

"working day" means any day other than—

(a) a Saturday or a Sunday;

(b) Christmas Day;

(c) Good Friday;

(d) a day which is a bank holiday under the Banking and Financial Dealings Act 1971(**10**) in England and Wales.

(2) In these Regulations—

(a) any reference to a "valid travel ticket" is a reference to a travel ticket in a person's possession which is valid for—

(i) the day and time of the journey that person is making, has made or intends to make;

(ii) the train and route used for that journey;

(iii) the age of that person;

(iv) use with any rail card in the possession of that person which they are entitled to use for that journey;

(v) use in combination with any other travel ticket in the possession of that person which they are entitled to use for that journey; and

(vi) the class of travel used by that person; and

(b) any reference to a person leaving a train includes a person present in or leaving—

(i) a station, having left a train arriving at that station; or

(ii) a compulsory ticket area, having left a train arriving at that compulsory ticket area.

(3) Where the terms on which a travel ticket is issued require the holder to produce on request any other document(**11**)when using that ticket for travel, any reference in these Regulations to a travel ticket includes such a document.

PART 2

Penalty Fares

Requirement to produce a ticket

4.—(1) A person travelling by, present on, or leaving a train must, if required to do so by or on behalf of an operator, produce a valid travel ticket.

(2) 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, must if required to do so by or on behalf of an operator produce—

(a) a valid travel ticket; or

(**10**) 1971 c. 80.
(**11**) See section 130(12) of the Railways Act 1993 (c.43) for the meaning of "document"

(b) a platform ticket where that person does not intend to board a train for the purpose of travel.

(3) In paragraph (1) the reference to "an operator" is to the operator of—

(a) the train which the person in question is travelling by, present on or leaving;

(b) the station, where the person in question is present in or leaving a station, having left a train arriving at that station; or

(c) where the person in question is present in or leaving a compulsory ticket area, having left a train arriving at that compulsory ticket area—

(i) the station of which the compulsory ticket area forms part; or

(ii) any train that arrives at, or departs from, the compulsory ticket area.

(4) In paragraph (2) the reference to "an operator" is to the operator of—

(a) the station of which the compulsory ticket area forms part; or

(b) any train that arrives at, or departs from, the compulsory ticket area.

Penalty fares

5.—(1) Subject to regulations 6, 7 and 10, if a person fails to produce a platform ticket or a valid travel ticket in accordance with regulation 4, a collector may charge that person a penalty fare.

(2) Where a collector charges a penalty fare to a person under paragraph (1), the collector must provide that person with the following information in writing at the time the penalty fare is charged—

(a) a statement that the person is being charged a penalty fare;

(b) an explanation of why the person is being charged a penalty fare;

(c) the identification number of the collector;

(d) the name of the operator on whose behalf the penalty fare is charged;

(e) the penalty fare number;

(f) the amount of the penalty fare;

(g) a statement that the person has the right to appeal against the penalty fare and an explanation of how the person can appeal;

(h) a statement that the person must either pay, or appeal against, the penalty fare within 21 days beginning with the day following the day on which the penalty fare is charged;

(i) an explanation of how the penalty fare may be paid; and

(j) a statement that the person is entitled to a receipt if they pay the penalty fare.

(3) Where a person who is charged a penalty fare under paragraph (1) pays the penalty fare, or part of it, that person must immediately be issued with written confirmation that the penalty fare in question has been paid, or paid in part, as the case may be.

(4) Where a person described in paragraph (3) is not provided with written confirmation of payment, that person is entitled to an immediate refund of the amount paid, but that person remains liable for the full amount of the penalty fare in accordance with these Regulations.

(5) Subject to paragraph (6), a penalty fare charged under paragraph (1) to a person travelling by or present on a train authorises that person to—

(a) travel by that train as far as, but no further than, the next station at which the train is due to make a scheduled call; and

(b) exit the relevant station described in sub-paragraph (a), including exiting through any compulsory ticket area.

(6) Paragraph (5) does not apply where, at the time a penalty fare is charged under paragraph (1), the train is stationary at a station and there is sufficient opportunity for the person charged to leave the train at that station.

(7) A penalty fare charged under paragraph (1)—

(a) in the circumstances described at paragraph (6); or

(b) to a person who is leaving a train,

authorises that person to leave the train and exit the station, including exiting through any compulsory ticket area.

(8) 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 to leave the compulsory ticket area and exit the station of which the compulsory ticket area forms part.

(9) Paragraphs (5) to (8) apply whether or not any payment has been made in respect of the penalty fare charged.

Penalty fares – train passenger exclusions

6.—(1) Subject to paragraph (6), a person travelling by, present on, or leaving a train (in this regulation "the passenger") must not be charged a penalty fare where either paragraph (2) or (3) applies.

(2) This paragraph applies if, at the time when, and at the station where, the passenger boarded the train—

(a) there were no facilities in operation for the sale of a travel ticket for that passenger's journey;

(b) the requirements for the display of notices specified in regulation 8 were not satisfied;

(c) a notice was displayed indicating that the passenger was, or persons generally were, permitted to travel by or be present on the train without having a travel ticket; or

(d) the operator of the train or the station, or a person acting or purporting to act on behalf of the operator, indicated that the passenger was, or persons generally were, permitted to travel by or be present on the train without having a travel ticket.

(3) This paragraph applies if—

(a) the passenger has travelled on a preceding train;

(b) at the time when, and at the station where, the passenger boarded the first of the preceding trains, any of sub-paragraphs (a) to (d) of paragraph (2) applied; and

(c) at the time when, and at the station where, the passenger changed from any preceding train—

(i) any of sub-paragraphs (a) to (d) of paragraph (2) applied; or

(ii) the passenger did not have sufficient time between leaving one train and boarding the next to purchase a travel ticket.

(4) In paragraph (2)(a), there are no facilities in operation for the sale of a travel ticket if—

(a) the passenger is not able to use any means of payment the passenger has available at the relevant time; and

(b) the passenger would usually be able to purchase a travel ticket at the station in question at the relevant time of day using one of those means of payment.

(5) A person must not be charged a penalty fare where the travel ticket which they have produced, in response to a request made under regulation 4(1), would be a valid travel ticket but for the fact