STATUTORY INSTRUMENTS

2018 No. 21

PUBLIC PASSENGER TRANSPORT, ENGLAND

The Advanced Quality Partnership Schemes (England) Regulations 2018

Made - - - -	*10th January 2018*
Laid before Parliament	*17th January 2018*
Coming into force - -	*8th February 2018*

The Secretary of State, in exercise of the powers conferred by sections 113N(1)(a) and (b), (2)(b) and (d), (3), (4)(a), (c), (d) and (e), (5)(a)(iii), (iv) and (v) and (b) and (8) and 160(1)(b) and (c) of the Transport Act 2000 [F1] makes the following Regulations.

F1 2000 c. 38; section 113N was inserted by section 1 of the Bus Services Act 2017 (c. 21).

Modifications etc. (not altering text)

C1 Regulations applied (with modifications) (4.4.2019) by The Greater Manchester Combined Authority (Functions and Amendment) Order 2019 (S.I. 2019/793), **arts. 1(2)**, **12**

PART 1

General

Citation and commencement

1.—(1) These Regulations may be cited as the Advanced Quality Partnership Schemes (England) Regulations 2018.

(2) These Regulations come into force on 8th February 2018.

Interpretation

2.—(1) In these Regulations—

"the 2000 Act" means the Transport Act 2000;

"the 1981 Act" means the Public Passenger Vehicles Act 1981 [F2];

"the 1985 Act" means the Transport Act 1985 [F3];

"admissible objection" has the meaning given in regulation 8;

"authority" means a local transport authority [F4];

"lead authority" means—

(a) the authority which has made, or is proposing to make, a scheme; or

(b) where regulation 4 applies, the authority named as the lead authority in the notice of a proposed scheme given under section 113G(1) (notice and consultation requirements) of the 2000 Act [F5];

"objector" means an operator who has made an objection in accordance with regulation 9;

"operator" means an operator who provides a local service [F6];

"relevant operator" has the meaning given in regulations 6 and 7;

"scheme" means an advanced quality partnership scheme [F7];

"traffic commissioner" means a commissioner appointed under section 4 (traffic commissioners) of the 1981 Act [F8].

(2) Any period of days prescribed in these Regulations is to be calculated excluding any day which is Christmas Day, Good Friday, or a day which is a bank holiday in England and Wales under the Banking and Financial Dealings Act 1971 [F9].

F2 1981 c. 14.
F3 1985 c. 67.
F4 By virtue of section 162(1) of the Transport Act 2000, the term "local transport authority" has the meaning given in section 108(4) of that Act. Section 108(4) was amended by the Local Transport Act 2008 (c. 26), **section 77(5)** and Schedule 4, Part 3, paragraphs 41 and 42 and the Local Democracy, Economic Development and Construction Act 2009 (c. 20), **Schedule 6**, paragraphs 95 and 96.
F5 Section 113G was inserted by section 1 of the Bus Services Act 2017.
F6 By virtue of section 162(3) of the Transport Act 2000, the term "local service" has the meaning given in section 2 of the Transport Act 1985.
F7 "Advanced quality partnership scheme" is construed in accordance with section 113C of the Transport Act 2000.
F8 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).
F9 1971 c. 80.

Appropriate rate of return

3. Where a person is required to consider whether an operator could be expected to secure an appropriate rate of return for operating services of a particular standard specified in any proposed or existing scheme, that person must have regard to the typical rates of return for operating local services of a comparable nature elsewhere in England.

Identification of lead authority

4.—(1) This regulation applies to any scheme containing a standard of services which includes requirements as to—

(a) the frequency or timing of services,

(b) the maximum fares that may be charged for particular journeys, or for journeys of particular descriptions,

(c) the ways in which passengers may pay for journeys, or

(d) the vehicles being used to provide the services,

which is made, or is proposed to be made, by two or more authorities acting jointly.

(2) Where this regulation applies—

(a) the authorities referred to in paragraph (1) must specify in the notice of the proposed scheme given under section 113G(1) of the 2000 Act which of them is to act as the lead authority for the purposes of these Regulations; and

(b) the lead authority must, before acting in accordance with any of the duties and responsibilities assigned by virtue of these Regulations—

(i) consult and seek representations from, and

(ii) wherever appropriate, act in accordance with the representations of,

the other authority or other authorities with whom the scheme is made, or is proposed to be made, jointly with the lead authority.

Services to be excluded from the application of section 113E(7) and (8) of the 2000 Act

5.—(1) This regulation applies where a local service is provided in accordance with a service subsidy agreement, or series of such agreements taken together, and that agreement or series of agreements has the effect described in paragraph (2).

(2) The effect is that by virtue of a requirement of the agreement or series of agreements, an operator provides services which meet one or more relevant requirements.

(3) Where this regulation applies, the restrictions contained in section 113E(7) and (8) (advanced quality partnership schemes: facilities, measures and standards) of the 2000 Act [F10] do not apply in respect of any relevant requirements.

(4) For the purposes of this regulation—

(a) a "service subsidy agreement" means an agreement made under section 9A(4) (general functions of authorities and executives) of the Transport Act 1968 [F11] or section 63(5) (functions of local councils with respect to passenger transport in areas other than integrated transport areas and passenger transport areas) of the 1985 Act [F12]; and

(b) a "relevant requirement" means a requirement specified in a scheme, or proposed scheme as to—

(i) the standard of services to be provided in relation to the frequency or timing of services,

(ii) the maximum fares that may be charged for particular journeys, or for journeys of particular descriptions,

(iii) the ways in which passengers may pay for journeys, or

(iv) the vehicles being used to provide the services.

F10 Section 113E was inserted by section 1 of the Bus Services Act 2017.

F11 1968 c. 73. Section 9A was inserted by section 57 of the Transport Act 1985. Section 9A(4) was amended by section 67 of the Local Transport Act 2008.

F12 Section 63(5) was amended by section 68(2) of the Local Transport Act 2008.

PART 2

Determination of Relevant Operator and Admissible Objection, Decisions and Referrals to a Traffic Commissioner

Definition of "relevant operator"

6.—(1) For the purposes of sections 113E(7) and (8) and 113N(5)(b) (regulations about schemes) of the 2000 Act and these Regulations, "relevant operator" has the meaning given to it by this regulation and regulation 7.

(2) Subject to paragraphs (3) and (4), a "relevant operator" is an operator who, on the day on which an authority or authorities give notice of the proposed scheme under section 113G(1) of the 2000 Act—

(a) is operating one or more local services in accordance with the particulars registered under section 6 (registration of local services) of the 1985 Act [F13], or

(b) is eligible under section 6(4) of the 1985 Act to have an application for registration accepted, and has made such an application to a traffic commissioner to register the particulars of one or more local services,

and the local service to which the registration or, as the case may be, application relates has one or more stopping places [F14] in the area to which the proposed scheme relates.

(3) Paragraph (2) does not apply to an operator when—

(a) the operator has, in respect of a local service to which paragraph (2)(a) applies, submitted an application to a traffic commissioner under section 6(7) of the 1985 Act to vary or cancel the registration of that local service, or

(b) the operator has, in respect of an application to which paragraph 2(b) applies, withdrawn that application,

and the effect of either sub-paragraph (a) or (b) is that the operator would not, at such time as the variation, cancellation or withdrawal takes effect, be operating any local services with one or more stopping places in the area to which the proposed scheme relates.

(4) Paragraph (2) does not apply to an operator of local services if the only services which that operator provides, or proposes to provide, and to which that paragraph would otherwise apply are services which, under the scheme as proposed by the authority or authorities in the notice given under section 113G(1) of the 2000 Act, would be excluded from the scheme under section 113H(3) (making of scheme) of the 2000 Act [F15].

F13 Section 6 of the Transport Act 1985 has been amended by paragraph 8 of Schedule 12 to the Railways Act 2005 (c. 14), **paragraph 2(2)** and (3) of Schedule 10 to the Education and Inspections Act 2006 (c. 40), **sections 48(2)**, 49 and 65 of the Local Transport Act 2008, paragraph 2 of Schedule 1 to the Learner Travel (Wales) Measure 2008 (c. 02), **S.I**. 2010/1158, 2013/1644 and sections 11(2), (3) and (4), 12(2), 18(4) and 20(1) and (2) of, and paragraph 2 of Schedule 1 and paragraph 2 of Schedule 2 to, the Bus Services Act 2017. There are other amendments which are not relevant.

F14 By virtue of section 162(3) of the Transport Act 2000, the term "stopping place" has the meaning given by section 137(1) of the Transport Act 1985.

F15 Section 113H was inserted by section 1 of the Bus Services Act 2017.

Definition of "relevant operator" following modification of proposed scheme

7.—(1) This regulation applies where an authority or authorities, following consultation under section 113G(3) of the 2000 Act, decide that it is appropriate to make a scheme under section 113H(1) of the 2000 Act with modifications and paragraph (2) applies.

(2) This paragraph applies where the operator did not, on the day referred to in regulation 6(2), satisfy the definition of a relevant operator in that paragraph but would have satisfied that definition if the proposed scheme referred to in the notice given under section 113G(1) of the 2000 Act had instead been the scheme as modified.

(3) Where this regulation applies, the lead authority must, as soon as reasonably practicable, serve notice on any operator to whom paragraph (2) may apply informing that operator of the modifications to the proposed scheme.

(4) Regulations 9 to 16 apply to any operator on whom notice is required to have been served in accordance with paragraph (3) as if the reference in regulation 9(1) to the publication of a notice under section 113G(1) of the 2000 Act was a reference to the service of a notice under paragraph (3) of this regulation.

Definition of "admissible objection"

8.—(1) For the purposes of sections 113E(7) and (8) and 113N(5)(b) of the 2000 Act and these Regulations, "admissible objection" has the meaning given to it in this regulation.

(2) An "admissible objection" is an objection—

(a) made in accordance with the procedure prescribed in regulation 9; and

(b) which satisfies either or both of the grounds described in paragraph (3).

(3) The grounds are that—

(a) for either or both of the reasons listed in paragraph (4), it would not be practicable for the objector to provide particular relevant services, or relevant services of a particular description, to a specified standard, which would apply to those relevant services if the scheme as proposed in the notice given under section 113G(1) of the 2000 Act were to be made; or

(b) taking into account the matters listed in paragraph (5), it would not be commercially viable for the objector, acting in a competent and efficient manner, to provide relevant services to a specified standard, which would apply to those relevant services if the scheme as proposed in the notice given under section 113G(1) of the 2000 Act were to be made.

(4) The reasons referred to in paragraph (3)(a) are that—

(a) the objector would need to procure additional vehicles or equipment, or upgrade existing vehicles or equipment, in order to provide the service to the particular standard specified in the proposed scheme and it would not be practicable for the objector to do so by the date specified in the proposed scheme; or

(b) the objector would need to employ additional staff to provide the service to the particular standard specified in the proposed scheme and it would not be practicable for the objector to do so by the date specified in the proposed scheme.

(5) The matters referred to in paragraph (3)(b) are—

(a) the likely cost to the objector of providing relevant services to the particular standard which would apply to those services if the scheme as proposed in the notice given under section 113G(1) of the 2000 Act were to be made;