Draft Order laid before Parliament under sections 19A(8) and 56(4) of the Railways Act 2005, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2010 No. 0000

PUBLIC PASSENGER TRANSPORT

The Passengers' Council (Non-Railway Functions) Order 2010

Made - - - - 2010

Coming into force in accordance with article 1

The Secretary of State, in exercise of the powers conferred by section 19A of the Railways Act 2005(**1**), makes the following Order.

A draft of this Order was laid before Parliament in accordance with sections 19A(8) and 56(4) of that Act and approved by a resolution of each House of Parliament.

Citation and commencement

1. This Order may be cited as the Passengers' Council (Non-Railway Functions) Order 2010 and comes into force on the day after the day on which it is made.

New name for Rail Passengers' Council

2.—(1) The body corporate established under section 19(1) of the Railways Act 2005 is to be known as the Passengers' Council.

(2) The consequential amendments in the Schedule have effect.

(3) References in enactments, instruments or documents to the Central Rail Users' Consultative Council or to the Rail Passengers' Council have effect after the coming into force of this Order as references to the Passengers' Council.

Conferral of non-railway functions on the Passengers' Council

3.—(1) After section 112 of the Transport Act 1985(**2**) insert—

(**1**) 2005 c. 14. Section 19A was inserted by section 74 of the Local Transport Act 2008 (c. 26).
(**2**) 1985 c. 67.

"PART 5A

PASSENGERS' COUNCIL: ROAD PASSENGER TRANSPORT FUNCTIONS IN ENGLAND

Introductory

112A.—(1) "Road passenger transport service" means—

(a) a local service(**3**), so far as operating in England;

(b) a domestic coach service, so far as operating in England; or

(c) a tramway passenger service, so far as operating in England.

(2) But a service is not a "road passenger transport service" if—

(a) it is an excursion or tour(**4**); or

(b) it is provided in a public service vehicle(**5**) used under a permit granted under section 19.

(3) "Road passenger transport facility" means a facility in England for road passenger transport services.

(4) This section has effect for the purposes of this Part.

Duty to keep road passenger transport services and facilities under review

112B.—(1) The Passengers' Council must, so far as it appears expedient from time to time to do so—

(a) keep under review matters affecting the interests of the public in relation to road passenger transport services and facilities; and

(b) make representations to, and consult, such persons as it considers appropriate about those matters.

(2) The Council and any other public body may enter into an agreement for that other body to be responsible, in accordance with the agreement, for—

(a) determining what is expedient for the purposes of subsection (1) in relation to an area specified in the agreement; and

(b) otherwise performing the Council's functions under subsection (1) in relation to that area.

(3) So long as an agreement under subsection (2) is in force—

(a) the duties of the Council under subsection (1) in relation to the area specified in the agreement fall on the other party to the agreement instead of on the Council; but

(b) the Council is not prevented from doing anything mentioned in subsection (1) in relation to that area.

(4) An agreement under subsection (2)—

(a) may be entered into on such terms and conditions as the parties to it may agree; and

(**3**) The term "local service" is defined in section 2 of the Transport Act 1985.
(**4**) The term "excursion or tour" is defined in section 137 of the Transport Act 1985.
(**5**) By virtue of section 137(2) of the Transport Act 1985, the term "public service vehicle" has the meaning given in section 1 of the Public Passenger Vehicles Act 1981 (c. 14).

(b) may contain provision for determining, for the purposes of this section, in what circumstances things done under or for the purposes of subsection (1) are to be treated as done in relation to the area specified in the agreement.

(5) The written consent of the Secretary of State is required before the Council and another public body may enter into an agreement under this section.

(6) In this section "public body" means any authority or other body on which functions are conferred by or under an enactment.

Duty to investigate road passenger transport services and facilities

112C.—(1) The Passengers' Council must investigate any matter relating to the provision of road passenger transport services or facilities if—

(a) the matter is the subject of a representation made to the Council by a user or potential user of road passenger transport services or facilities;

(b) the matter is the subject of a representation made to the Council by an organisation representative of users or potential users of road passenger transport services or facilities;

(c) the matter is referred to the Council by the Secretary of State for investigation; or

(d) it appears to the Council that the matter is one which the Council ought to investigate.

(2) The Council is not required to investigate a matter in a case falling within subsection (1)(a) or (b) if the matter appears to the Council to be frivolous or vexatious.

(3) The Council is not required to investigate a matter in a case falling within subsection (1)(a) or (b) if, or to the extent that, the Council refers the matter to another body under section 112D.

(4) The Council must not investigate by virtue of subsection (1)(d) any matter which relates solely to the provision of London road passenger transport services or facilities.

(5) Subsection (4) does not prevent the Council from so investigating any such matter as part of an investigation of a matter which relates wholly or mainly to—

(a) the provision of road passenger transport services or facilities other than London road passenger services or facilities; or

(b) the provision of road passenger transport services or facilities in any part of England outside London.

Power to refer matters elsewhere instead of investigating

112D.—(1) This section applies in relation to a matter which is the subject of a representation made to the Passengers' Council under section 112C(1)(a) or (b).

(2) If the Council thinks that it would be more appropriate for the matter to be considered—

(a) by an operator of road passenger transport services;

(b) by a provider of road passenger transport facilities; or

(c) by any body which does not fall within paragraph (a) or (b);

the Council may refer the matter to that person or body.

(3) The Council must refer the matter to the London Transport Users' Committee(**6**) if, or in so far as, it appears to the Council to relate to the provision of London road passenger transport services or facilities.

(4) Subsection (3) does not require the Council to refer a matter to the Committee if, or in so far as, it appears to the Council to relate to the provision of a long distance coach service.

(5) Subsection (4) does not apply in the case of a matter if, or in so far as, it appears to the Council to relate to a London local passenger.

(6) Subsection (4) does not prevent the Council referring a matter under subsection (3) if, or in so far as, it considers it appropriate to do so.

(7) In this section—

"London local passenger" means a passenger making a journey which begins and ends at stopping places in London;

"long distance coach service" means a bus service—

(a) which has one or more stopping places(**7**) outside London; and

(b) which would be a domestic coach service, if no account were taken of any London local passengers.

Investigations: power to obtain information

112E.—(1) This section applies if the Passengers' Council is carrying out an investigation under section 112C in relation to road passenger transport services or facilities.

(2) If the Council requests an operator of services, or a provider of facilities, to provide any information which the Council considers necessary for the purpose of carrying out the investigation, subsection (3) applies.

(3) A person who receives such a request must provide the information unless—

(a) the person does not have, and cannot reasonably obtain, it; or

(b) the provision of the information would impose an unreasonable burden on the person.

(4) A person who relies on paragraph (a) or (b) of subsection (3) must notify the Council in writing of that fact, stating the reason why the paragraph in question applies.

(5) If the Council—

(a) has requested information from an operator of local services or domestic coach services, and

(b) considers that it has not received a satisfactory response to that request,

the Council may refer the matter to a traffic commissioner.

(6) If the Council—

(a) has requested information from an operator of tramway passenger services, and

(b) considers that it has not received a satisfactory response to that request,

the Council may refer the matter to the promoter.

(7) If a matter is referred by virtue of subsection (5) or (6), the traffic commissioner or, as the case may be, the promoter may require the recipient of the request mentioned in

(**6**) For the London Transport Users' Committee see in particular Chapter 10 of Part 4 of the Greater London Authority Act 1999 (c. 29).

(**7**) The term "stopping places" is defined in section 137 of the Transport Act 1985 (c. 67).

subsection (2) to provide such of the information as the traffic commissioner or promoter considers appropriate.

Investigations: protection of confidential information

112F.—(1) This section applies to any information provided to the Passengers' Council pursuant to section 112E(3) in the circumstances described in subsection (2).

(2) The circumstances are that—

(a) the person who provided the information has requested that the information be held in confidence; and

(b) a person would not be entitled to the information in response to a request made in accordance with the Freedom of Information Act 2000(**8**) by virtue of the exemptions in section 41 or 43 of that Act.

(3) Information to which this section applies must not—

(a) be included in any investigation report published under section 112K; or

(b) be disclosed by the Council to any other person.

(4) Nothing in this section affects—

(a) the power of the Council to refer a matter, including the confidential information, following investigation in accordance with section 112H or 112I; or

(b) any obligation on the Council to disclose information in order to comply with an order of a court or a tribunal.

Investigations: representations

112G.—(1) Having investigated a matter under section 112C the Passengers' Council may, if it considers it appropriate to do so, make representations to—

(a) an operator of road passenger transport services;

(b) a provider of road passenger transport facilities;

(c) a local traffic authority in England;

(d) the Highways Agency of the Secretary of State for Transport;

(e) a local transport authority in England.

(2) If the Council makes representations to a person under this section—

(a) the person must have regard to those representations; and

(b) the person must, within a reasonable time, send the Council a written statement describing any actions that the person has taken or intends to take in response to the representations.

Referrals following investigation

112H.—(1) This section applies if the Passengers' Council—

(a) has made representations under section 112G; and

(b) considers that it is unable to achieve a satisfactory outcome by that means.

(2) If the representations were made to any operator of local services or domestic coach services, the Council may refer the matter to a traffic commissioner.

(**8**) 2000 c. 36.