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STATUTORY INSTRUMENTS

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**2018 No. 423**

**PUBLIC PASSENGER TRANSPORT, ENGLAND**

**The Franchising Schemes (Service Permits) (England) Regulations 2018**

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| <i>Made</i>                   | - - - - | <i>26th March 2018</i> |
| <i>Laid before Parliament</i> |         | <i>3rd April 2018</i>  |
| <i>Coming into force</i>      | - -     | <i>24th April 2018</i> |

The Secretary of State makes these Regulations in exercise of the powers conferred by sections 123Q(3), 123R(3), 123S(3), 123U(3) and 160(1)(b) of the Transport Act 2000<sup>(1)</sup>.

**Citation and commencement**

1.—(1) These Regulations may be cited as the Franchising Schemes (Service Permits) (England) Regulations 2018.

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

**Interpretation**

2. In these Regulations—

“the 2000 Act” means the Transport Act 2000;

“application procedure” means the procedure determined by a franchising authority or authorities<sup>(2)</sup> that an applicant for a service permit must follow;

“effective time” means the beginning of the day on which a local service<sup>(3)</sup> may first be provided under a service permit;

“proposed franchising scheme” means the franchising scheme which is the subject of the consultation document published by the franchising authority or authorities under section 123E(2) of the 2000 Act<sup>(4)</sup>;

“relevant persons” means—

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(1) 2000 c. 38. Sections 123Q, 123R, 123S and 123U were inserted by section 4 of the Bus Services Act 2017 (c. 21).  
(2) The term “franchising authority or authorities” is used in section 123A of the Transport Act 2000. A franchising scheme may be made by a single authority or by two or more authorities acting jointly.  
(3) 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 (c. 67).  
(4) Section 123E was inserted by section 4 of the Bus Services Act 2017.

- (a) all persons operating local services in the area to which the proposed franchising scheme relates;
- (b) any relevant local authority<sup>(5)</sup> any part of whose area would, in the opinion of the franchising authority or authorities, be affected by the grant of a service permit; and
- (c) such other persons as the franchising authority or authorities think fit;

“required information” means the information specified by a franchising authority or authorities that an applicant for a service permit must submit with the application;

“service permit policy statement” means a statement which satisfies the requirements set out in regulation 5.

### **Procedure to be followed by an authority prior to the making of applications for a service permit**

3.—(1) A franchising authority or authorities<sup>(6)</sup> must not accept an application for a service permit<sup>(7)</sup> made under section 123Q of the 2000 Act if they have not complied with the conditions set out in paragraph (2).

(2) The conditions are that the franchising authority or authorities must—

- (a) publish a consultation document which satisfies the requirements set out in regulation 4;
- (b) consult relevant persons;
- (c) publish a report setting out the authority’s or authorities’ response to the consultation; and
- (d) after complying with sub-paragraphs (a) to (c) and no earlier than the date the franchising scheme<sup>(8)</sup> is published under section 123H(1) of the 2000 Act<sup>(9)</sup>, publish a service permit policy statement which satisfies the requirements set out in regulation 5.

### **Consultation document requirements**

4.—(1) The requirements referred to in regulation 3(2)(a) are that the consultation document must include—

- (a) a description of the proposed application procedure;
- (b) a description of the proposed required information;
- (c) the proposed amount of any fee that must accompany the application;
- (d) the proposed periods of validity of service permits;
- (e) the proposed period of time within which the franchising authority or authorities will take a decision on an application for a service permit;
- (f) the proposed period of time between the date on which a service permit is granted and the effective time; and
- (g) in a case where a person who has been granted a service permit wishes to vary or withdraw a local service, the proposed period of time between the date on which the person notifies

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(5) “Relevant local authority” has the meaning given by section 123E(5) of the Transport Act 2000.

(6) By virtue of section 162(1) of the Transport Act 2000, 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 Transport Act 2000, inserted by section 4 of the Bus Services Act 2017.

(7) By virtue of section 162(1) of the Transport Act 2000, as amended by paragraph 23 of Schedule 2 to the Bus Services Act 2017, “service permit” has the meaning given in section 123P of the Transport Act 2000, inserted by section 4 of the Bus Services Act 2017.

(8) By virtue of section 162(1) of the Transport Act 2000, as amended by paragraph 23 of Schedule 2 to the Bus Services Act 2017, “franchising scheme” has the meaning given in section 123A(3) of the Transport Act 2000, inserted by section 4 of the Bus Services Act 2017.

(9) Section 123H was inserted by section 4 of the Bus Services Act 2017.

the franchising authority or authorities of its intention and the date on which the variation or withdrawal is to take effect, such period not to exceed 56 days.

(2) The franchising authority or authorities may, in relation to paragraph (1)(e) and (f), specify different proposed periods of time in relation to different applications for a service permit.

(3) The franchising authority or authorities may, in relation to paragraph (1)(g), specify different proposed periods of time in relation to different grants of a service permit.

### **Service permit policy statement requirements**

5.—(1) The requirements referred to in regulation 3(2)(d) are that the service permit policy statement must include—

- (a) a description of the application procedure;
- (b) a description of the required information;
- (c) the amount of any fee that must accompany the application;
- (d) the periods of validity of service permits;
- (e) the period of time within which the franchising authority or authorities will take a decision on an application for a service permit;
- (f) the period of time between the date on which a service permit is granted and the effective time; and
- (g) in a case where a person who has been granted a service permit wishes to vary or withdraw a local service, the period of time between the date on which the person notifies the franchising authority or authorities of its intention and the date on which the variation or withdrawal is to take effect, such period not to exceed 56 days.

(2) The franchising authority or authorities may, in relation to paragraph (1)(e) and (f), specify different periods of time in relation to different applications for a service permit.

(3) The franchising authority or authorities may, in relation to paragraph (1)(g), specify different periods of time in relation to different grants of a service permit.

### **Fees**

6. Any fee required for processing an application for a service permit must be no more than the reasonable cost of processing that application.

### **Conditions**

7. The conditions or description of conditions that may be specified by the franchising authority or authorities in a notice published under section 123R(1) are conditions—

- (a) about enabling tickets to be purchased or fares to be paid in particular ways;
- (b) that persons operating local services under a service permit must accept or issue tickets of a specified description;
- (c) that persons operating local services under a service permit comply with requirements as to the price to be charged for tickets that they are obliged to issue under sub-paragraph (b);
- (d) that persons operating local services under a service permit offer discounted travel for specified groups of persons and accept evidence of entitlement to such discounted travel issued by other persons operating local services or other relevant local authorities;
- (e) that persons operating local services under a service permit publish specified information about the local services provided by them in the area to which the franchising scheme relates and about other local services in that area;

- (f) that persons operating local services under a service permit publish specified information about their fares, the fares of other persons operating local services and ticketing arrangements in the area to which the franchising scheme relates;
- (g) requiring services under a service permit to be provided in vehicles that comply with specified standards;
- (h) as to customer service standards; and
- (i) as to operational standards.

### **Information required in a service permit**

- 8.** A service permit must be granted in writing and include—
- (a) any conditions attached to the service permit;
  - (b) the date on which the service permit is granted;
  - (c) the effective time; and
  - (d) the period of validity of the service permit.

### **Period of validity of a service permit**

- 9.—(1)** A service permit must be granted for a specified period of time, such period beginning at the effective time.
- (2) A service permit authorising the provision of a local service ceases to be valid if—
- (a) the franchising scheme for the area in which the local service is provided has been revoked; or
  - (b) the franchising scheme for the area in which the local service is provided has been varied so that it no longer relates to the area in which the local service is provided.
- (3) A service permit ceases to be valid under paragraph (3) from the date the revocation or variation is to have effect.

### **Revocation and suspension**

- 10.—(1)** Where a franchising authority or authorities decide to revoke or suspend a service permit granted by them, the authority or authorities must give written notice of their decision to the holder of the service permit.
- (2) The notice of revocation or suspension must include—
- (a) the grounds on which the service permit is being revoked or suspended;
  - (b) the date on which the revocation or suspension of the service permit is to take effect; and
  - (c) the effect of the revocation or suspension.
- (3) Where a service permit is suspended, the notice must also include—
- (a) the measures the holder of the service permit must take to have the suspension lifted;
  - (b) the date on which the suspension will cease to have effect if the holder of the service permit takes the measures referred to in sub-paragraph (a); and
  - (c) any arrangements for the suspension to be reviewed.
- (4) Subject to paragraph (5), where a service permit is revoked or suspended, the date on which the revocation or suspension is to take effect must be no earlier than 56 days after the date on which the notice is given.

(5) A franchising authority or authorities may revoke or suspend a service permit with immediate effect on the ground that the public would be endangered if the service continued to operate.

(6) Where a service permit is revoked or suspended with immediate effect under paragraph (5), the service permit is no longer valid from the time the notice is given.

Signed by authority of the Secretary of State for Transport

26th March 2018

*Nusrat Ghani*  
Parliamentary Under Secretary of State  
Department for Transport

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations make provision in respect of permits to provide bus services in areas where a bus franchising scheme is in place. A bus franchising scheme is a scheme under which certain local authorities in England decide which bus services they consider appropriate for their area. (At the moment only mayoral combined authorities can make a franchising scheme.) These bus services are provided under local service contracts and bus operators in the area can only provide the services in accordance with the local service contracts. However a franchising authority may also grant a service permit authorising the operation of a bus service in the area of the scheme, for example a service that crosses the boundary of the scheme area. The authority must grant a service permit if they are satisfied both that the service will benefit passengers in the area and will not have an adverse effect on other services that are provided under the franchising scheme. If they are not satisfied about these matters, they must not grant a service permit.

Regulation 3 sets out that the franchising authority must comply with certain conditions in paragraph (2) of that regulation. Paragraph (2) requires the authority to publish a consultation document, consult local bus operators, neighbouring local authorities and other relevant persons, publish a response to any consultation responses and publish a service permit policy statement. An authority cannot accept an application for a service permit if it has not complied with these conditions.

Regulations 4 and 5 set out what the consultation document and the service permit policy statement must contain; for example a description of the application procedure, the information that must be submitted with the application and the amount of the fee, if any, that must be paid with the application.

Regulation 6 provides that the fee for processing an application for a service permit must not be more than the reasonable cost of processing the application.

Regulation 7 sets out, in a case where a franchising authority publishes a notice setting out the conditions that they may attach to a service permit, the list of conditions that they may specify in that notice. For example the franchising authority may specify a condition about enabling tickets to be purchased or fares to be paid in particular ways, or a condition that local bus operators must offer discounted travel to certain groups of people.

Regulation 8 requires that a grant of a service permit must be in writing. It also sets out what information the permit must include.

Regulation 9 makes provision about the period of time in respect of which an authority may grant a service permit.

Regulation 10 makes provision about the revocation and suspension of service permits, for example where the holder of the service permit has failed to comply with a condition attached to it.

An impact assessment has not been produced for these Regulations. However an assessment was made of the impact of the Bus Services Bill and this was updated to take account of any additional impacts of the regulations relating to franchising schemes. Copies of the assessment may be obtained from the Buses and Taxis Division, Department for Transport, 2/12 Great Minster House, 33 Horseferry Road, London SW1P 4DR or from the Bus Services Bill page on gov.uk

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/589730/bus-services-bill-ia-for-regulations-secondary-legislation.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/589730/bus-services-bill-ia-for-regulations-secondary-legislation.pdf)

An Explanatory Memorandum for this instrument has been published alongside these Regulations at [www.legislation.gov.uk](http://www.legislation.gov.uk).