

2010 No. 439

PUBLIC PASSENGER TRANSPORT

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

Made - - - - *24th February 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^(a), 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^(b) insert—

^(a) 2005 c. 14. Section 19A was inserted by section 74 of the Local Transport Act 2008 (c. 26).
^(b) 1985 c. 67.

“PART 5A
PASSENGERS’ COUNCIL: ROAD PASSENGER TRANSPORT
FUNCTIONS IN ENGLAND

112A Introductory

- (1) “Road passenger transport service” means—
 - (a) a local service^(a), 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^(b); or
 - (b) it is provided in a public service vehicle^(c) 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.

112B Duty to keep road passenger transport services and facilities under review

- (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
 - (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.

^(a) The term “local service” is defined in section 2 of the Transport Act 1985.

^(b) The term “excursion or tour” is defined in section 137 of the Transport Act 1985.

^(c) 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).

(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.

112C Duty to investigate road passenger transport services and facilities

(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.

112D Power to refer matters elsewhere instead of investigating

(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^(a) 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.

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

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

112E Investigations: power to obtain information

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

112F Investigations: protection of confidential information

(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 term “stopping places” is defined in section 137 of the Transport Act 1985 (c. 67).

- (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^(a) 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.

112G Investigations: representations

- (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.

112H Referrals following investigation

- (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.
- (3) If the representations were made to any operator of tramway passenger services, the Council may refer the matter to the promoter.
- (4) If the representations were made to a local traffic authority and the Council considers that it may be appropriate for a traffic commissioner to exercise powers under section 27A (additional powers in relation to local traffic authorities where service not operated as registered)^(b), the Council may refer the matter to a traffic commissioner.
- (5) If the representations were made to a local traffic authority and the Council considers that it may be appropriate for the Secretary of State to exercise powers under Part 2 of the Traffic Management Act 2004^(c) (enforcement of network management duties), the Council may refer the matter to the Secretary of State.

^(a) 2000 c. 36.

^(b) Section 27A was inserted by section 63(1) of the Local Transport Act 2008 (c. 26).

^(c) 2004 c. 18.

112I Referrals in cases where investigation identifies other failings

(1) This section applies if, on investigating a matter under section 112C, the Passengers' Council has reason to believe that—

- (a) an operator of local services has failed to operate a local service registered under section 6 or has operated a local service in contravention of that section; or
- (b) the holder of a PSV operator's licence^(a) is contravening, or is likely to contravene, any conditions or requirements of that licence.

(2) The Council may refer a matter described in subsection (1) to a traffic commissioner.

112J Traffic commissioner's duty following referral

(1) This section applies if the Passengers' Council refers a matter to a traffic commissioner under section 112E, 112H or 112I.

(2) The traffic commissioner dealing with the matter must consider whether, in connection with the matter, it would be appropriate to exercise any of the powers of a traffic commissioner in respect of—

- (a) an operator of local services;
- (b) a holder of a PSV operator's licence; or
- (c) a local traffic authority.

112K Investigation reports

(1) This section applies where the Passengers' Council has investigated a matter under section 112C.

(2) The Council may prepare a report of its findings (an "investigation report").

(3) The Council may send a copy of an investigation report to the Secretary of State and to such other persons as the Council thinks fit.

(4) The Council may publish an investigation report.

(5) In the case of an investigation report prepared following an investigation which is carried out as the result of a referral by the Secretary of State under section 112C(1)(c), the Council must obtain the Secretary of State's consent before—

- (a) sending the report to any person other than the Secretary of State; or
- (b) publishing the report.

112L Interpretation of Part 5A

(1) In this Part—

"domestic coach service" means a bus service which—

- (a) carries passengers at separate fares; and
- (b) is not a local service;

"local traffic authority" has the meaning given by section 121A of the Road Traffic Regulation Act 1984^(b);

"local transport authority" has the meaning given by section 108(4) of the Transport Act 2000^(c);

(a) By virtue of section 137 of the Transport Act 1985, the term "PSV operator's licence" means a PSV operator's licence granted under Part 2 of the Public Passenger Vehicles Act 1981.

(b) 1984 c. 27. Section 121A was inserted by the New Roads and Street Works Act 1991 (c. 22), section 168(1) and Schedule 8, Part 2, paragraph 70. It was amended by the Greater London Authority Act 1999 (c. 29), section 271(1) to (3) and S.I. 2001/1400, article 2 and the Schedule, paragraph 1. There are other amendments but none is relevant.

(c) 2000 c. 38. Subsection 4(c) was substituted by the Local Transport Act 2008, section 77(5) and Schedule 4, Part 3, paragraphs 41 and 42.

“London road passenger transport services or facilities” means road passenger transport services or facilities—

- (a) provided by Transport for London(a) or any of its subsidiaries;
- (b) provided in pursuance of an agreement entered into by Transport for London or in pursuance of a transport subsidiary’s agreement; or
- (c) otherwise authorised by Transport for London to be provided;

“promoter”, in the case of any tramway passenger services, means the person authorised to secure the provision of those services with whom the operator of the services has entered into an agreement granting the operator the right to operate them;

“road passenger transport facility” has the meaning given by section 112A(3);

“road passenger transport service” has the meaning given by section 112A(1) and (2);

“subsidiary”, in relation to Transport for London, has the same meaning as in the Greater London Authority Act 1999 (see section 424(1) of that Act(b));

“tramway” has the meaning given by section 67(1) of the Transport and Works Act 1992(c);

“tramway passenger service” means any service for the carriage of passengers by tramway;

“transport subsidiary’s agreement” has the same meaning as in the Greater London Authority Act 1999 (see section 169 of that Act).

(2) Where, by virtue of this Part, a person is required to submit information or documents to the Passengers’ Council, the information or documents may be transmitted to an electronic address and in an electronic form specified by the Council.”.

(2) During the period (if any) which—

- (a) begins with the day on which this Order comes into force, and
- (b) ends immediately before the coming into force of the amendments made by section 2 of the Local Transport Act 2008(d) (traffic commissioners to be appointed nationally instead of for traffic areas),

any matter which is to be referred to a traffic commissioner by virtue of any provision of Part 5A of the Transport Act 1985(e) is to be referred to the traffic commissioner for any traffic area in which the operator of the service, or (as the case may be) the holder of a PSV operator’s licence, to whom the matter relates has one or more operating centres for vehicles used under a PSV operator’s licence.

(3) In paragraph (2), the following expressions have the same meaning as in the Transport Act 1985 (see section 137 of that Act)—

“operating centre”;

“PSV operator’s licence”;

“traffic area(f)”;

“traffic commissioner”.

Members of the Passengers’ Council

4. In section 19(2)(e) of the Railways Act 2005(g) (appointment of members) for “not more than twelve” substitute “not more than fourteen”.

(a) For Transport for London see in particular Chapter 2 of Part 4 of the Greater London Authority Act 1999.

(b) The definition was substituted by S.I. 2009/1941, article 2(1) and Schedule 1, paragraph 178(1) and (6).

(c) 1992 c. 42.

(d) 2008 c. 26.

(e) 1985 c. 67. Part 5A is inserted by S.I. 2010/XXX, article 3.

(f) This definition was amended by S.I. 1999/288, article 5(2).

(g) 2005 c. 14.

Consequential amendments to Schedule 5 to the Railways Act 2005

5.—(1) Schedule 5 to the Railways Act 2005 (Rail Passengers' Council established by section 19(1)) is amended as follows.

(2) In paragraph 16(2)—

(a) omit “or” at the end of paragraph (a);

(b) at the end of paragraph (b) insert—

“or

(c) a traffic commissioner.”.

(3) In paragraph 18(1), after “in relation to the carrying out of” insert “any or all of”.

Signed by authority of the Secretary of State

24th February 2010

Sadiq Khan
Minister of State
Department for Transport

SCHEDULE

Article 2

CHANGE OF NAME OF RAIL PASSENGERS' COUNCIL: CONSEQUENTIAL AMENDMENTS

PART 1

AMENDMENTS TO PRIMARY LEGISLATION

Public Records Act 1958 (c. 51)

1.—(1) In Schedule 1 to the Public Records Act 1958 (definition of public records) Part 2 of the Table at the end of paragraph 3 is amended as follows.

(2) At the appropriate place insert—

“Passengers’ Council.”.

(3) Omit the entry for the Rail Passengers’ Council(a).

Transport Act 1962 (c. 46)

2.—(1) The Transport Act 1962 is amended as follows.

(2) In section 56 (the Transport Consultative Committees) for “Rail Passengers’ Council”(b) (in each place) substitute “Passengers’ Council”.

(3) In the heading to section 56 for “Transport Consultative Committees” substitute “Passengers’ Council and London Transport Users’ Committee”.

Parliamentary Commissioner Act 1967 (c. 13)

3.—(1) Schedule 2 to the Parliamentary Commissioner Act 1967 (departments etc subject to investigation) is amended as follows.

(2) At the appropriate place insert—

“Passengers’ Council.”.

(3) Omit the entry for the Rail Passengers’ Council(c).

Transport Act 1968 (c. 73)

4.—(1) The Transport Act 1968 is amended as follows.

(2) In section 55(1) (amendments as to Transport Consultative Committees) for “Rail Passengers’ Council”(d) substitute “Passengers’ Council”.

(3) In the heading to section 55 for “Transport Consultative Committees” substitute “Passengers’ Council and London Transport Users’ Committee”.

(a) These words were inserted by the Transport Act 2000, section 229 and Schedule 23, paragraph 10.

(b) These words were substituted by the Transport Act 2000, section 227 and Schedule 22, Part 2, paragraphs 15(1), (2)(a) and (b) and (4)(b). The words “Each of the Rail Passengers’ Council and the London Transport Users’ Committee” were substituted by the Railways Act 2005, section 59(1) and Schedule 12, paragraph 1(1) and (3)(d).

(c) Schedule 2 was substituted by S.I. 2008/3115, article 2 and the Schedule.

(d) These words were substituted by the Transport Act 2000, section 227 and Schedule 22, Part 2, paragraph 17.

Channel Tunnel Act 1987 (c. 53)

5. In section 41(1)(a) of the Channel Tunnel Act 1987 (railway services: consultative committees and closures) for “Rail Passengers’ Council”(a) substitute “Passengers’ Council”.

Railways Act 1993 (c. 43)

6.—(1) The Railways Act 1993 is amended as follows.

(2) In section 68(2) (investigatory functions of Office of Rail Regulation) for “Rail Passengers’ Council”(b) substitute “Passengers’ Council”.

(3) In section 76 (general duties of Rail Passengers’ Council)—

(a) for “the Rail Passengers’ Council”(c) (in each place) substitute “the Passengers’ Council”; and

(b) in the heading for “General Duties of the Rail Passengers’ Council”(d) substitute “General railway duties of Passengers’ Council”.

(4) In the cross-heading before section 76 for “Rail Passengers’ Council”(e) substitute “Passengers’ Council”.

(5) In section 76A (delegation of duties under section 76(7A))(f) for “Rail Passengers’ Council” (in each place) substitute “Passengers’ Council”.

(6) In section 145(5)(a) (general restrictions on disclosure of information) for “Rail Passengers’ Council”(g) substitute “Passengers’ Council”.

Greater London Authority Act 1999 (c. 29)

7.—(1) The Greater London Authority Act 1999 is amended as follows.

(2) In section 252B(1)(b) (references to Committee in relation to railways)(h) for “Rail Passengers’ Council” substitute “Passengers’ Council”.

(3) In section 252D(3)(a) (reports on investigation etc)(i) for “Rail Passengers’ Council” substitute “Passengers’ Council”.

(4) In section 252E(2) (power to make exclusions from duties under sections 252A to 252D)(j) for “Rail Passengers’ Council” substitute “Passengers’ Council”.

(5) In Schedule 18 (London Transport Users’ Committee) in paragraph 11(3) for “Rail Passengers’ Council”(k) substitute “Passengers’ Council”.

Transport Act 2000 (c. 38)

8.—(1) The Transport Act 2000 is amended as follows.

(2) In section 227 (renaming of committees) omit subsection (3)(l).

(3) In Schedule 22 (renaming of Rail Users’ Consultative Committees) omit paragraphs 8, 20 and 24.

(a) These words were substituted by the Transport Act 2000, section 227 and Schedule 22, Part 2, paragraph 20.

(b) These words were substituted by the Railways Act 2005, section 21(2).

(c) These words were substituted by the Transport Act 2000, section 227 and Schedule 22, Part 1, paragraphs 1 and 8.

(d) The words “Rail Passengers’ Council” were substituted by the Transport Act 2000, section 227, Schedule 22, Part 1, paragraphs 1 and 8(1) and (9).

(e) These words were substituted by the Transport Act 2000, section 227 and Schedule 22, Part 1, paragraphs 1 and 8(1) and (10).

(f) Section 76A was inserted by the Railways Act 2005, section 20.

(g) These words were substituted by the Railways Act 2005, section 54(4) and Schedule 11, paragraphs 1 and 16(2).

(h) Section 252B was inserted by the Railways Act 2005, section 21(3) and Schedule 6, paragraph 3.

(i) Section 252D was inserted by the Railways Act 2005, section 21(3) and Schedule 6, paragraph 3.

(j) Section 252E was inserted by the Railways Act 2005, section 21(3) and Schedule 6, paragraph 4(1).

(k) These words were substituted by the Transport Act 2000, section 227 and Schedule 22, Part 2, paragraphs 21 and 24.

(l) This subsection was amended by the Railways Act 2005, section 59(6) and Schedule 13, Part 1.

(4) In Schedule 28 (transitionals and savings about railways) in paragraph 10 for “Rail Passengers’ Council” substitute “Passengers’ Council”.

Railways Act 2005 (c. 14)

9.—(1) The Railways Act 2005 is amended as follows.

(2) In section 1(3)(e) (transfer etc of SRA functions and abolition) for “Rail Passengers’ Council” substitute “Passengers’ Council”.

(3) In section 19 (the Rail Passengers’ Council)—

- (a) for “Rail Passengers’ Council” (in each place) substitute “Passengers’ Council”; and
- (b) in the heading, for “Rail Passengers’ Council” substitute “Passengers’ Council”.

(4) In section 19A (power to confer non-rail functions on the Rail Passengers’ Council)(a)—

- (a) for “Rail Passengers’ Council” (in each place) substitute “Passengers’ Council”; and
- (b) in the heading, for “Rail Passengers’ Council” substitute “Passengers’ Council”.

(5) In the heading to Part 3, for “Rail Passengers’ Council” substitute “Passengers’ Council”.

(6) In paragraph 32 of Schedule 1 (transfer of functions relating to the Rail Passengers’ Council)—

- (a) in sub-paragraph (1), for “Rail Passengers’ Council” substitute “Passengers’ Council”; and
- (b) in the heading to paragraph 32, for “Rail Passengers’ Council” substitute “Passengers’ Council”.

(7) In Schedule 5 (Rail Passengers’ Council established by section 19(1))—

- (a) in paragraph 1 (introductory), for the definition of “the RPC” substitute—
““the PC” means the Passengers’ Council established by section 19(1).”;
- (b) for “RPC” (in each place) substitute “PC”; and
- (c) in the heading to Schedule 5, for “Rail Passengers’ Council” substitute “Passengers’ Council”.

(8) In paragraph 3(2)(g) of Schedule 7 (consultations under Part 4), for “Rail Passengers’ Council” substitute “Passengers’ Council”.

(a) Section 19A was inserted by the Local Transport Act 2008, section 74.

PART 2

AMENDMENTS TO SECONDARY LEGISLATION

Welsh Language Schemes (Public Bodies) Order 2002

10. In the Schedule to the Welsh Language Schemes (Public Bodies) Order 2002(a) for “Rail Passengers Council” substitute “Passengers’ Council”.

Railways (Rail Passengers’ Council and Rail Passengers’ Committees) (Exemptions) Order 2003

11. In article 3 of the Railways (Rail Passengers’ Council and Rail Passengers’ Committees) (Exemptions) Order 2003(b) (exemption in favour of the Rail Passengers’ Council), for “Rail Passengers’ Council” substitute “Passengers’ Council”.

Disability Discrimination (Public Authorities) (Statutory Duties) Regulations 2005

12. In Part 5 of Schedule 1 to the Disability Discrimination (Public Authorities) (Statutory Duties) Regulations 2005(c) (authorities added on 6th April 2007), for “Passenger Focus (the operating name of the Rail Passengers’ Council(d) established under the Railways Act 2005)” substitute “Passenger Focus (the operating name of the Passengers’ Council established under the Railways Act 2005)”.

Railway (Licensing of Railway Undertakings) Regulations 2005

13. In regulation 17(1) of the Railway (Licensing of Railway Undertakings) Regulations 2005(e) (general duties of the Rail Passengers’ Council), for “Rail Passengers’ Council” substitute “Passengers’ Council”.

Railways and Other Guided Transport Systems (Safety) Regulations 2006

14. In regulation 17(10)(a)(iii) of the Railways and Other Guided Transport Systems (Safety) Regulations 2006(f) (general provisions relating to safety certificates and safety authorisations), for “Rail Passengers’ Council” substitute “Passengers’ Council”.

Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006

15. In column 2 of entry 23 of the table in Schedule 5 to the Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006(g) (those to be served with a copy of the application and documents), for “Rail Passengers’ Council” substitute “Passengers’ Council”.

(a) S.I. 2002/1441.

(b) S.I. 2003/1695. There are amendments to this Order but none is relevant.

(c) S.I. 2005/2966. Part 5 of Schedule 1 was inserted by S.I. 2007/618, regulation 4. There are other amendments to these Regulations but none is relevant.

(d) With the consent of the Secretary of State, the Rail Passengers’ Council adopted the operating name “Passenger Focus” in January 2006.

(e) S.I. 2005/3050. There are amendments to these Regulations but none is relevant.

(f) S.I. 2006/599. There are amendments to these Regulations but none is relevant.

(g) S.I. 2006/1466.

National Assembly for Wales (Disqualification) Order 2006

16. In Part 2 of the Schedule to the National Assembly for Wales (Disqualification) Order 2006(a) (other disqualifying offices), for “Chairman and any other member of the Rail Passengers’ Council in receipt of remuneration;” substitute “Chairman and any other member of the Passengers’ Council in receipt of remuneration;”.

Scottish Parliament (Disqualification) Order 2007

17. In Part 1 of the Schedule to the Scottish Parliament (Disqualification) Order 2007(b) (office-holders disqualified from being a Member of the Scottish Parliament) omit “Chairman and any other member of a Rail Passengers’ Council in receipt of remuneration” and insert, at the appropriate place in alphabetical order, “Chairman and any other member of a Passengers’ Council in receipt of remuneration”.

Official Statistics Order 2009

18. In the Schedule to the Official Statistics Order 2009(c) omit “Rail Passengers Council” and insert, in the appropriate place in alphabetical order, “Passengers’ Council”.

Infrastructure Planning (National Policy Statement Consultation) Regulations 2009

19.—(1) Regulation 3 of the Infrastructure Planning (National Policy Statement Consultation) Regulations 2009(d) (consultation) is amended as follows.

(2) In Table 1—

- (a) in column 1, for “Rail Passengers Council” substitute “Passengers’ Council”; and
- (b) in column 2, at the end of the entry which corresponds to the entry in column 1 for the Rail Passengers Council insert “or the road passenger transport industry”.

Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009

20.—(1) The table in Schedule 1 to the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009(e) is amended as follows.

(2) In column 1, for “Rail Passengers Council” substitute “Passengers’ Council”;

(3) In column 2, at the end of the entry which corresponds to the entry in column 1 for the Rail Passengers Council insert “or road passenger transport services or facilities”.

(4) In column 3, at the end of the entry which corresponds to the entry in column 1 for the Rail Passengers Council insert “or road passenger transport services or facilities”.

(a) S.I. 2006/3335. There are amendments to this Order but none is relevant.

(b) S.I. 2007/285. There are amendments to this Order but none is relevant.

(c) S.I. 2009/753.

(d) S.I. 2009/1302.

(e) S.I. 2009/2264.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order confers additional functions on the Rail Passengers' Council (known under the operating name "Passenger Focus"), which was established under section 19 of the Railways Act 2005. This Order is made under powers in section 19A of that Act, inserted by section 74 of the Local Transport Act 2008. The power in section 19A extends to England, Wales and Scotland only. Although this Order amends enactments which extend to Northern Ireland, the amendments do not apply to that legislation as it extends to Northern Ireland.

The general duties of the Rail Passengers' Council are prescribed in section 76 of the Railways Act 1993. The Council has a statutory duty to investigate certain matters relating to the provision of railway passenger services and station services. Such matters may be referred to the Council by passengers, passenger representative bodies, or the Secretary of State. The Council may also investigate such other matters as it thinks fit.

Article 2 changes the name of the Rail Passengers' Council to the Passengers' Council, to reflect the new functions conferred upon it by virtue of this Order. This article also introduces the *Schedule*, which makes consequential amendments to other legislation arising from the change of name.

Article 3 inserts into the Transport Act 1985 a new Part 5A consisting of twelve sections which confer powers and impose duties on the Council in relation to road passenger transport services and road passenger transport facilities in England. New section 112B confers new functions in relation to the provision of bus services (local services, as defined in section 2 of the Transport Act 1985), domestic coach services, tramway passenger services, and road passenger transport facilities. The new provisions impose a duty on the Council to investigate certain matters referred by the Secretary of State, passengers, or passenger representative bodies. The Council may also investigate matters of its own volition (new section 112C). Where the Council considers it to be appropriate, it may refer certain matters to another body for investigation (new section 112D).

These new functions apply only to services and facilities so far as they are provided in England. Where a matter relates solely to services or facilities provided, procured or authorised by Transport for London, the Council has no power to initiate an investigation, although it may consider such services or facilities as part of a wider investigation into services elsewhere in England. Any such matters referred by passengers or passenger representatives must be sent to the London Transport Users' Committee.

New section 112E enables the Council to request information from providers of services and facilities, and requires such persons to provide the information unless it is unreasonable for them to do so. New section 112G sets out the powers of the Passengers' Council to make representations to certain persons, and imposes duties on those persons to respond. New sections 112H and 112I enable the Council to refer a matter to a traffic commissioner, a promoter of a tramway or, as appropriate, the Secretary of State, following investigation, so that appropriate enforcement action may be considered.

Article 4 increases the maximum number of ordinary members of the Passengers' Council from 12 to 14. This does not affect the appointment of the Chairman, or the members appointed by the Scottish Ministers, the Welsh Ministers and the London Assembly.

Article 5 makes consequential amendments to the Railways Act 2005.

An impact assessment has been prepared and copies can be obtained from the Department for Transport, Great Minster House, 76 Marsham Street, London, SW1P 2DR. The assessment is annexed to the Explanatory Memorandum which can be found alongside the instrument on the Office of Public Sector Information website (www.opsi.gov.uk).

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STATUTORY INSTRUMENTS

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

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