



Department
for Transport

Reviewing the Public Service Vehicles (Conduct of Drivers, Inspectors, Conductors and Passengers) Regulations 1990

Public Consultation Document

October 2014

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Executive summary

Introduction

1. In December 2011, the Department for Transport published its 'Red Tape Challenge - Road Transportation' document (<http://www.redtapechallenge.cabinetoffice.gov.uk/themehome/road-transportation/>), which laid out proposals to amend or revoke existing regulations in each transport sector, with the aim of cutting down unnecessary burdens on business and members of the public.
2. This consultation document relates to the Department's commitment to review the Public Service Vehicles (Conduct of Drivers, Inspectors, Conductors and Passengers) Regulations 1990¹ ("Conduct Regulations") in light of the Red Tape Challenge and to remove any requirements where they duplicate other legislation or can be covered more effectively by a bus or coach operator's own conditions of carriage, so long as safety and accessibility standards are maintained.
3. The Department's proposed amendments to this legislation concentrate on three specific areas:

¹ SI 1990 No.1020.

- a. Interpretation (regulation 3) - to update a number of the definitions and references to other legislation in the Conduct Regulations that are now outdated or have been superseded.
 - b. The conduct of drivers, inspectors and conductors (regulations 4 and 5) - to update the rules around interactions between drivers and their passengers and conductors to better reflect changes to buses since 1990 and remove legal requirements for drivers that are covered elsewhere in legislation.
 - c. The conduct of passengers (regulations 6 and 7) - to simplify and update the methods by which payments can be made by passengers on a bus and remove rules on passenger behaviour that are more appropriately covered by other legislation or by operator's conditions of carriage.
4. However, this consultation exercise provides an opportunity for those responding to outline their own views on which parts of the Conduct Regulations should be removed, updated or simplified to ensure that this legislation is fit for purpose.
 5. At this time, we are not proposing any changes to the regulations covering the conduct of drivers and conductors of regulated public service vehicles with respect to wheelchair users and other disabled persons (regulations 11 -17).
 6. This is because the Department for Transport cannot be certain that relying on the Equality Act 2010 would afford disabled passengers the same level of protection provided by the Conduct Regulations whilst travelling by bus.
 7. It should be noted that as this consultation is being carried out as part of a 'Red Tape Challenge' commitment, the Department for Transport is looking to reduce overall domestic regulation, rather than add to it. With this in mind, we will not consider suggested amendments to the Conduct Regulations that actually represent an increase in regulatory burdens on either the bus industry or the general public.
 8. Furthermore, although it could be argued that the Conduct Regulations would benefit from a more clearly defined enforcement regime with more proportionate penalties for certain breaches of the legislation, this would not be possible without a change to primary legislation. This is because the action that can be taken for contravention or failure to comply with the Regulations is set out in sections 24 and 25 of the Public Passenger Vehicles Act 1981. As any changes to the

method of enforcement would require changes to primary legislation, the Department is not considering this at this time.

9. This consultation outlines proposals in respect of England and Wales.

Who should read this?

This public consultation will be of particular interest to:

- a. Any organisation operating a public service vehicle (PSV) that falls within the scope of the Conduct Regulations;
- b. Passengers of these PSVs;
- c. Drivers, Conductor and Inspectors operating on these PSVs;
- d. Local Authorities responsible for the provision of bus services;
- e. Passenger Transport Executives (PTEs)
- f. Passenger representative bodies;
- g. Disability rights organisations and charities;
- h. Bus and Coach industry representatives and trade associations
- i. Police forces and representative organisations

How to respond

The consultation period began on 11th November 2014 and will run until 23rd December 2014. Please ensure that your response reaches us before the closing date. If you would like further copies of this consultation document, it can be found at https://www.gov.uk/government/publications?publication_filter_option=consultations or you can contact the address below if you need alternative formats (Braille, audio CD, etc.).

Please send consultation responses to:

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Email: Buses@dft.gsi.gov.uk

When responding, please state whether you are responding as an individual or representing the views of an organisation. If responding on behalf of a larger organisation, please make it clear who the organisation represents and, where applicable, how the views of members were assembled.

A list of those consulted is attached at Annex D. If you have any suggestions of others who may wish to be involved in this process please contact us.

Freedom of Information

Information provided in response to this consultation, including personal information, may be subject to publication or disclosure in accordance with the Freedom of Information Act 2000 (FOIA) or the Environmental Information Regulations 2004.

If you want information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence.

In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information, we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

The Department will process your personal data in accordance with the Data Protection Act (DPA) and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

Proposed amendments to the 'Conduct Regulations'

Background

- 1.1** The Public Service Vehicles (Conduct of Drivers, Inspectors, Conductors and Passengers) Regulations 1990 ('Conduct Regulations') set out the duties and expected behaviour of bus drivers, conductors, inspectors and passengers on bus and coach services operated around Great Britain. These Regulations re-enact, with amendments, the Public Service Vehicles (Conduct of Drivers, Conductors and Passengers) Regulations 1936, which were originally created using provisions within the Road Traffic Act of 1930.
- 1.2** In 2002, the Conduct Regulations were updated to include additional requirements for drivers, inspectors and conductors of all public service vehicles with respect to certain dogs that may accompany a disabled person and to passengers with respect to disabled people in general and to certain disabled people's dogs. In addition, a new Part, including specific requirements for drivers and conductors of regulated public service vehicles with respect to wheelchair users and other disabled people, was added to the Regulations.
- 1.3** Although the Regulations were updated as recently as 2002, a number of the original provisions from the original 1990 regulations remain in place and are now outdated or covered by more recent legislation, such as the Equality Act 2010 or the Health Act 2006. Through this public consultation exercise, the Department for Transport will outline its proposed changes to the Conduct Regulations, in order to ensure that this legislation is fit for purpose and that our Red Tape Challenge commitments are fully met.

- 1.4** In advance of undertaking this public consultation, the Department for Transport carried out an informal information gathering exercise with a limited number of key stakeholders (including representatives from the bus industry, passenger bodies and disability groups) to ensure we had a correct understanding of how the existing Conduct Regulations are currently being used and how they might be improved. A number of the suggested amendments outlined below are therefore based on information received during this exercise.
- 1.5** Whilst the possibility of making further extensive changes to the Conduct Regulations was considered during the drafting of this document, it is the Department for Transport's view that significant amendments could adversely affect the safety and accessibility standards currently offered by these Regulations to passengers travelling on public service vehicles, as well as drivers, conductors and inspectors.
- 1.6** The Department's proposed changes to the Conduct Regulations are as follows:

Part One - Interpretation (regulation 3)

- 1.7** Regulation 3 of the Conduct Regulations includes details of each piece of legislation referred to in the text of the regulation, as well as numerous definitions relevant to some or all of the regulations that follow. These definitions cover a range of issues and many of them remain accurate and require no further attention.
- 1.8** However, the Department for Transport feels that there are changes that can be made to simplify this regulation and ensure that all definitions are accurate and up to date.
- 1.9** Firstly, in their current form, the Conduct Regulations include definitions for 'hearing dog', 'guide dog' and 'assistance dog', which duplicate the definition of 'assistance dog' which now appears in section 173(1) of the Equality Act 2010. This duplication is unnecessary and potentially confusing.
- 1.10** We are therefore proposing to remove the references to both 'hearing dog' and 'guide dog' and to amend the definition of 'assistance dog' so that it simply cross-refers to section 173(1) of the 2010 Act. That definition covers any dog which has been trained to guide a blind person, assist a deaf person or

any disabled person who has either a disability that consists of epilepsy or otherwise affects the person's mobility, manual dexterity, physical co-ordination or ability to lift, carry or otherwise move everyday objects or some other disability prescribed by regulations.

Q1: Do you agree with the Department for Transport's proposed amendments to regulation 3? If not, please explain why?

Q2: Are there any further amendments to this regulation that you think should be made?

Part Two - The conduct of drivers, inspectors and conductors (regulations 4 and 5)

- 1.11** Regulations 4 and 5 set out the rules and restrictions on the people and equipment that drivers can interact with while their vehicle is in motion. These regulations also explain the rules for drivers, inspectors and conductors in respect of providing their details, smoking, distracting the driver, interacting with disabled passengers with assistance dogs and ensuring they take all reasonable precautions to ensure the safety of passengers who are on, or who are entering or leaving the vehicle.
- 1.12** The first three parts of regulation 4 currently provide that a driver shall not, when a vehicle is in motion, hold a microphone or speak to any person either directly or through a microphone. The regulation goes on to explain that this requirement should not apply if the driver is obliged to speak by reason of an emergency or on grounds of safety or wishes to speak to a relevant person in relation to the operation of the vehicle, provided that he can do so without being distracted. Finally, the regulation also explains that this should not prevent the driver of a vehicle from making short statements from time to time limited to indicating the location of the vehicle or operational matters, provided that he can do so without being distracted from his driving of the vehicle.
- 1.13** We feel that in its current form, regulation 4 is unnecessarily detailed and contains a degree of repetition on the subject of when a driver should be allowed to speak in the event of an emergency. Therefore, we propose to amend and shorten the regulation to simplify the rules for drivers and remove any

unnecessary and repetitive text, while retaining the overall rules on safety. This will allow regulation 4 to present a clearer picture of not only the restrictions imposed on drivers while the vehicle is in motion, but also on their ability to announce the location of the vehicle, or its next stop, which may be of use to many disabled (and other) passengers.

- 1.14** Furthermore, we are also proposing to make the following small amendments to provisions within regulation 5 to make them clearer and more concise.
- 1.15** Regulation 5(3)(a) currently states that a driver, inspector or conductor "*shall, if so requested by a constable or other person having reasonable cause, give his name, the person by whom he is employed and, in the case of a driver, particulars of the licence by virtue of which he drives the vehicle*". The Department believes that a police constable is more likely to rely on powers to request details of a driver's licence under section 164 of the Road Traffic Act 1988 (power to request production of a driver licence). We therefore propose to remove the text relating to details of the drivers licence.
- 1.16** Although we are not proposing to remove the requirement for drivers, inspectors and conductors to provide their details to a person 'having reasonable cause', we would welcome views on whether this requirement remains practical, given the level of enforcement action required to address a breach of regulation 5(3)(a) may be disproportionate.
- 1.17** Regulation 5(3)(b) states that no driver, inspector or conductor shall smoke in or on a vehicle except in one of the circumstances specified in regulation 5(4). However, since the Conduct Regulations were last updated, section 5 of the Health Act 2006 has come into force, pursuant to which Regulations have been made which provide for smoke-free vehicles, including buses and coaches. In light of this, we are proposing to remove regulation 5(3)(b) and regulation 5(4) in their entirety as regulations made under section 5 of the 2006 Act more effectively address the issue of smoking².
- 1.18** Regulation 5(6) states that "*a conductor shall not, while the vehicle is in motion and without reasonable cause, distract the driver's attention or obstruct his vision*". As the role and number of conductors operating on public service vehicles has

² See paragraph 11 of the Smoke-free (Exemptions and Vehicles) Regulations 2007 (SI 2007 No. 765) The Smoke-free Premises etc (Wales) Regulations 2007 (2007/787(W.68))

altered significantly since 1990 and also because every conductor is instructed not to distract the driver or block his view as part of their basic training, we are proposing to remove this provision. As well as the reasons outlined above, the interaction between conductors and drivers is generally covered by each operator's conditions of employment.

Q3: Do you agree with the Department for Transport's proposed amendments to regulations 4 and 5? If not, please explain why?

Q4: Are there any further amendments to these regulations that you think should be made?

Part Three - The Conduct of Passengers (regulations 6 to 10)

- 1.19** Regulations 6 to 10 set out the rules and restrictions in respect of passengers travelling on public service vehicles. These regulations explain what is deemed to be unreasonable passenger behaviour as well as establishing rules on passenger interaction with drivers, conductors and inspectors, as well as with other passengers. Finally, they provide clear rules on how passengers should pay for their journey, the documentation they should keep throughout their journey and the consequences for not adhering to these rules.
- 1.20** Although many of the rules for passengers set out in regulations 6 to 10 remain accurate and require no further attention, the Department for Transport feels that certain regulations should either be removed or be simplified to take account of more recent legislation and changes to operator's conditions of carriage.
- 1.21** Firstly, regulation 6(1)(d) states that no passenger may *"smoke or carry lighted tobacco or light a match or a cigarette lighter in or on any part of the vehicle where passengers are by a notice informed that smoking is prohibited, unless the vehicle has been hired as a whole and both the operator and the hirer have given their permission to the contrary"*. As with similar regulations dealing with the issue of smoking in respect of drivers, we propose that regulation 6(1)(d) should be removed in its entirety as this issue is now dealt with

effectively by regulations made under section 5 of the Health Act 2006.

- 1.22** Regulations 6(1)(e) and (f) state that passengers may not "*distribute any paper or other article for the purpose of giving or seeking information about or comment upon any matter*" or "*sell or offer for sale any article*" without the permission of the operator which in practice now means the driver. Although the Department for Transport agrees that restrictions such as this remain relevant, it is apparent that small indiscretions such as this are difficult to enforce without a penalty system and are generally covered by each operator's conditions of carriage. For these reasons, we are therefore proposing to remove regulations 6(1)(e) and (f).
- 1.23** Regulation 7 deals explicitly with how passengers pay for their journey. As many changes have been made to the way payments can be made on board buses (or in advance of travel) since 1990, we are proposing to update and simplify the text of this regulation to reflect this.
- 1.24** More specifically, we propose to amend regulation 7(2) to include the option of using a variety of alternative payment methods (concessionary travel pass, Oyster etc), rather than only paying the driver.
- 1.25** Furthermore, we are proposing the removal of regulation 7(2)(c), which deals with making payments to conductors due to the changing nature and lesser prominence of conductors on modern public service vehicles. We hope both these changes will allow the Conduct Regulations to present a clearer picture for passengers on how they are able to pay for their journey.

Q5: Do you agree with the Department for Transport's proposed amendments to regulations 6 and 7? If not, please explain why?

Q6: Are there any further amendments to these regulations that you think should be made?

Part Four - The Conduct of Drivers and Conductors of Regulated Public Service Vehicles with Respect to Wheelchair Users and Other Disabled Persons (regulations 11 to 17)

- 1.26** Regulations 11 to 17 set out the responsibilities for drivers and conductors in respect of wheelchair users and disabled passengers. More specifically, these regulations impose specific duties on drivers and conductors when operating kneeling systems and folding/retractable steps, boarding lifts and ramps, general duties towards wheelchair users and other disabled persons (subject to the effects of faulty or malfunctioning equipment) and requirements concerning the display of route numbers.
- 1.27** Although the Department has considered making significant amendments to regulations 11 to 17 on the basis that the Equality Act 2010 makes it unlawful for any bus operator to discriminate against a disabled person simply because they are disabled, treat disabled people less favourably or fail to make a reasonable adjustment to the way they provide their services, we have decided against any proposing any specific changes in this area.
- 1.28** This is because these regulations comprise the only detailed legal requirements, made as recently as 2002, concerning the specific duties and requirements for drivers and conductors in respect of all disabled passengers on a public service vehicle. We therefore feel that removing these regulations and relying instead on the Equality Act 2010 would not benefit disabled passengers and may lead to a lack of clarity on certain bus-specific issues.
- 1.29** However, those responding to this consultation are invited to provide their own views on how these regulations could be amended below.

Q7: Do you agree with the Department for Transport's proposed approach to make no changes to regulations 11 to 17? If not, please explain why?

Q8: Are there any specific amendments to these regulations that you think should be made?

Question 1 - Do you agree with the Department for Transport's proposed amendments to regulation 3? If not, please explain why?

Answer:

Question 2 - Are there any further amendments to this regulation that you think should be made?

Answer:

Question 3 - Do you agree with the Department for Transport's proposed amendments to regulations 4 and 5? If not, please explain why?

Answer:

Question 4 - Are there any further amendments to these regulations that you think should be made?

Answer:

Question 5 - Do you agree with the Department for Transport's proposed amendments to regulations 6 and 7? If not, please explain why?

Answer:

Question 6 - Are there any further amendments to these regulations that you think should be made?

Answer:

Question 7 - Do you agree with the Department for Transport's proposed approach to make no changes to regulations 11 to 17? If not, please explain why?

Answer:

Question 8 - Are there any specific amendments to these regulations that you think should be made?

Answer:

What will happen next?

A summary of responses, including the next steps, will be published within three months of the consultation closing here:

www.gov.uk/government/publications

Paper copies will be available on request.

If you have questions about this consultation please contact:

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Further background information can be found at [web address]

Annex A: Full list of consultation questions

Q1: Do you agree with the Department for Transport's proposed amendments to regulation 3? If not, please explain why?

Q2: Are there any further amendments to this regulation that you think should be made?

Q3: Do you agree with the Department for Transport's proposed amendments to regulations 4 and 5? If not, please explain why?

Q4: Are there any further amendments to these regulations that you think should be made?

Q5: Do you agree with the Department for Transport's proposed amendments to regulations 6 and 7? If not, please explain why?

Q6: Are there any further amendments to these regulations that you think should be made?

Q7: Do you agree with the Department for Transport's proposed approach to make no changes to regulations 11 to 17? If not, please explain why?

Q8: Are there any specific amendments to these regulations that you think should be made?

Annex C: Consultation principles

The consultation is being conducted in line with the Government's key consultation principles which are listed below. Further information is available at

<https://www.gov.uk/government/publications/consultation-principles-guidance>

If you have any comments about the consultation process please contact:

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Please do not send your consultation response to this address.