

The Rights of Passengers in Bus and Coach Transport Regulations 2013 (Amended 2017)

A guide for operators who operate cross-border services or journeys over 250Km

Please be aware that the provisions in this paper will continue to apply following Britain's exit from the European Union.

The main aim is to prevent discrimination against passengers on the grounds of their nationality or disability.

The regulations on journeys over 250km in length within the UK have been exempted until 1st March 2021.

Buses need to be wheelchair accessible but the exemption for coaches to be wheelchair accessible will not end until 2020.

The regulations apply to all regular services of 250km or more which start and finish in two different EU member states. This includes journeys of over 250Km into or out of the UK.

Until 2021, the regulations do not apply to regular services between the UK and Geneva with bus stops only in Folkestone and Paris, or Zurich, with bus stops only at /Folkestone, Brussels and Basel.

The regulations apply to all third parties carrying out any part of the duties involved in the journey, including subcontracted carrier, ticket vendors, travel agents, tour operators or terminal managing bodies.

Journeys which mostly take place outside EU member states can be exempted even if they have stops within EU countries and the passenger affected is only travelling from one EU country to another. This will be the case until 2021.

Please note that the journey of the coach determines whether the regulations apply, **not that of the passenger**

1 Disability awareness and assistance training

The exemption from the requirement to ensure drivers are trained and instructed in meeting the needs of disabled passengers (*article 16.1*) ran out in March 2018 so you must ensure that all drivers and front-line staff have received disability awareness training. The requirements are as follows:

- awareness of and appropriate responses to passengers with physical, sensory (hearing and visual), hidden or

learning disabilities, including how to distinguish between the different abilities of persons whose mobility, orientation, or communication may be reduced,

- barriers faced by disabled persons and persons with reduced mobility, including attitudinal, environmental/physical and organisational barriers,
- recognised assistance dogs, including the role and the needs of an assistance dog,
- dealing with unexpected occurrences, interpersonal skills and methods of communication with deaf people and people with hearing impairments, people with visual impairments, people with speech impairments, and people with a learning disability,
- how to handle wheelchairs and other mobility aids carefully so as to avoid damage (if any, for all staff who are responsible for luggage handling)

There are also requirements for Disability Assistance training for staff who are involved in directly assisting disabled persons and persons with restricted mobility which are as follows:

- How to help wheelchair users make transfers into and out of a wheelchair
- Skills for providing disabled people and people of restricted mobility travelling with a recognised assistance dog, including the role and needs of those dogs
- Techniques for escorting visually impaired passengers and for the handling and carriage of recognised assistance dogs
- An understanding of the types of equipment which can assist disabled persons and persons of restricted mobility and a knowledge of how to handle such equipment
- The use of boarding and alighting assistance equipment used and the appropriate procedures which safeguard the safety and dignity of the disabled person or person with restricted mobility
- Understanding the need for professional and reliable assistance
- Understanding the potential for some disabled people and persons of restricted mobility to experience feelings of vulnerability during travel because of their dependence of the assistance provided
- A knowledge of First Aid

2 Discrimination on the grounds of nationality

You cannot discriminate against passengers because of their nationality, except where a concessionary pass acceptance is limited to passengers from a particular part of the UK (known as a “social tariff”). While this is an unlikely event in the UK, it means that an operator cannot offer a special fare to tourists from another country without that fare being available to UK nationals also.

3 Refusal to transport a disabled person

Operators cannot refuse to transport somebody because of their disability or reduced mobility, nor can they charge extra for doing so. However, the regulations recognise that there are circumstances in which it is physically impossible to comply with the requirement to carry all passengers with disability, and these are spelled out in Article 10: Exceptions and special conditions

1. Notwithstanding Article 9(1), carriers, travel agents and tour operators may refuse to accept a reservation from, to issue or otherwise provide a ticket to, or to take on board, a person on the grounds of disability or of reduced mobility:

- (a) in order to meet applicable safety requirements established by international, Union or national law, or in order to meet health and safety requirements established by the competent authorities;
- (b) where the design of the vehicle or the infrastructure, including bus stops and terminals, makes it physically impossible to take on board, alight or carry the disabled person or person with reduced mobility in a safe and operationally feasible manner.

The operator should inform the person in writing of their refusal within 5 days of the request to travel.

So essentially, the transportation of a disabled person still has to comply with safety legislation in force in the UK, and there is no requirement for vehicles to be accessible or for bus stops to be suitable to allow a disabled person to board within these regulations. However, the Disability Discrimination Act 1995 and the Equalities Act 2010 has ensured that all buses are now accessible and coaches will need to be so by 2020, although some wheelchairs and mobility scooters will not physically fit on a bus and it would be legal to refuse travel in those circumstances.

However, the safety restrictions involved should be publicly available on carrier's and terminal's websites and in printed and accessible formats. If a passenger requests a copy of these restrictions, they should be physically provided. All other general information relating to the journey and conditions of carriage should be made available in appropriate and accessible formats for disabled people.

If refusing travel in such circumstances, carriers, tour operators and travel agents must inform the passenger of any acceptable alternative service operated by the operator. They must also offer a full refund and, where relevant free return to the point of departure as soon as possible or, if feasible a reasonable alternative transport option to the destination.

If the refusal is based on the inability to carry the person in a safe and operationally feasible manner, the disabled person may request to be accompanied by a person of their choosing if they can make it safe to travel. That person should be carried free of charge and, where physically possible, in the seat next to the passenger.

Passengers should inform the tour operators, travel agent, carrier and terminal (if appropriate) of their need for assistance at least 36 hours before the assistance is needed and turn up in advance at a time specified by the carrier, which should be no more than 60 minutes before departure. If no time is set down by the carrier, the passenger should turn up at least 30 minutes before departure. This pre-supposes that the need for assistance is known to the passenger at that time.

Even if no notice is given by the passenger, the carriers and terminal managers need to make every reasonable effort to ensure that the person with a mobility issue can board and alight from the booked service or change to an alternative option.

Reimbursement cannot be withheld if a passenger does not notify 36 hours in advance.

4 Compensation if Mobility equipment is damaged on the bus/coach

There are explicit provisions where mobility equipment is damaged on the bus:

1. Carriers and terminal managing bodies shall be liable where they have caused loss of or damage to wheelchairs, other mobility equipment or assistive devices. The loss or damage shall be compensated by the carrier or terminal managing body liable for that loss or damage.
2. The compensation referred to in paragraph 1 shall be equal to the cost of replacement or repair of the equipment or devices lost or damaged.

This puts a clear onus on bus companies (and terminal managers) to reimburse the full cost of replacing or repairing a wheelchair or other mobility aid damaged or lost on the bus or at the terminal. There does not appear to be any time limit for reimbursement of the costs nor a definition of what constitutes responsibility for the loss, especially when an uninsured third party is the ultimate cause of that injury or loss, so clarification from the Department for Transport would be helpful.

(see also section 8)

5 The right to information

The Regulations state that "Carriers and terminal managing bodies shall, within their respective areas of competence, provide passengers with adequate information throughout their travel. Where feasible, this information shall be provided in accessible formats upon request"

There are a number of issues with this part of the Regulations in terms of what constitutes "adequate" and where the responsibilities end if multiple carriers are involved in a journey. Also Local Authorities are often responsible for travel information but operators are liable if this is not accurate. CPT has produced a draft Passenger Charter which advises on how members might address these issues and it would be advisable to use this as a template.

Long-distance and cross-border operators have to inform passengers as soon as possible but no later than 30 minutes after the scheduled departure time of a cancellation or delay and of the estimated departure time as soon as possible.

If passengers will miss a connecting service as a result, the carrier should make reasonable efforts to inform passengers of alternatives.

These two pieces of information need to be issued in accessible formats to disabled people affected and, if feasible, in electronic formats to all passengers who have provided contact details to operators and asked to be kept updated.

If the departure of a journey scheduled to take more than 3 hours is delayed by more than 90 minutes, passengers should be offered, free of charge, snacks meals or refreshments if they are available and can reasonably be supplied. Also accommodation and transport to and from that accommodation must be offered where a stay of 1 or more nights becomes necessary. The accommodation costs may be limited to 80 Euros per passenger per night for 2 nights. If the affected passengers are disabled, particular effort needs to go into meeting their needs and those of any accompanying passengers.

Passengers may still use legal means to seek damages under consumer laws.

6 Information on Passenger Rights

"Carriers and terminal managing bodies shall, within their respective areas of competence, ensure that passengers are provided with appropriate and comprehensible information regarding their rights under this Regulation at the latest on departure. This information shall be provided at terminals and where applicable, on the Internet. At the request of a disabled person or person with reduced mobility the information shall be provided, where feasible, in an accessible format. This information shall include contact details of the enforcement body or bodies"

Operators may use the EU website's summary of those rights to fulfil this requirement. For those journeys under 250Km, that summary of passenger rights would be as follows:

- **non-discrimination with respect to tariffs and contract conditions for passengers** based - directly or indirectly – on nationality,
- **non-discriminatory treatment of disabled persons and persons with reduced mobility** as well financial compensation for loss or damage of their mobility equipment in case of accident,
- **minimum rules on travel information** for all passengers before and during their journey as well as general information about their rights in terminals and online; where feasible, this information shall

be provided in accessible formats upon request precisely in the interest of the persons with reduced mobility,

- a **complaint handling mechanism** by carriers available to all passengers,
- **independent national bodies in each Member State** with the mandate to enforce the Regulation and where appropriate to impose penalties.

7 Right to information on how to complain

There is also a requirement for carriers to provide all passengers with a Complaints process, which, in the case of the UK, should include the relevant enforcement body to which complaints may be escalated if the operator's response is not deemed satisfactory. In London, that would be London TravelWatch, in Northern Ireland, that would be the Dept for the Environment and anywhere else in the UK, that would be Bus Users UK.

Passengers may complain up to three months after the incident takes place. Operators are required to respond with a month to a passenger complaint by saying whether the complaint 'has been substantiated, rejected or is still being considered' and three months from the date of receipt of the complaint they must provide the final reply. The Enforcement Body has three months from receipt of the escalated complaint in which to resolve a complaint under this legislation. The ultimate enforcement would be undertaken by the relevant Traffic Commissioner.

Operators and terminal bodies are expected to provide our contact details as part of the information on Passenger Rights they are required to bring to the attention of passengers. There is not a specific requirement for operators to carry details on their vehicles, although they will have to make this information available 'at the latest on departure' so unless, most operators are expecting to provide each passenger on each journey with a leaflet detailing this information, the obvious means of meeting this requirement would be an on-bus poster or sign.

8 Rights in case of an Accident or Delay

If a passenger dies or is injured as a result of an accident of more than 250Km or a cross-border service covered by the regulation, they are entitled to compensation (including reasonable funeral expenses) in the event of a death, as are their dependents.

If they suffer personal injury, loss of or damage to luggage as a result of an accident in this regard, they and their dependents are also entitled to compensation.

The amount of compensation will be determined by national law but will not be less than:

- 220,000 Euros per passenger
- 1,200 Euros per item of luggage. If wheelchairs or mobility equipment is damaged, the compensation must fully cover the cost of replacement or repair of the lost or damaged equipment.

Clauses in contracts seeking to limit or waive obligations under this regulation will not be legally valid, although operators may offer more favourable terms if desired.

The immediate practical needs of passengers following an accident should be addressed by reasonable and proportionate assistance by the carrier. This will include, as needed, accommodation, food, clothes, transport and the facilitation of first aid. Assistance will not constitute acceptance of liability. Accommodation costs may be limited by the carrier to a maximum of 80Euros per passenger per night for a maximum of 2 nights.

Where a carrier reasonably expects the departure of a service from a terminal or the departure of a service from a bus stop to be cancelled or delayed for more than 120 minutes or because of overbooking, the passenger must immediately be given a choice of the following options:

- Continuing or rerouting to the final destination at no additional cost and under comparable conditions as early as possible OR
- Reimbursement of the ticket price within 14 days after the offer is made and, if relevant, a free return to the first point of departure, by bus or coach as early as possible.

If the operator fails to offer the passenger that choice, the passenger will have a right of compensation equal to 50% of the purchase price of their ticket (in addition to the reimbursement), within one month of the passenger asking for compensation. In the case of season tickets, this will be proportional to the full cost of the ticket.

Reimbursement must be made in money unless the passenger agrees to a different form of payment.

If the bus or coach becomes inoperable during the journey, the operator will either continue the journey with another vehicle or transport to a waiting point where continuation will be arranged.

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If you have questions or queries, please look at:

- A summary of the original legislation which became law in 2013: https://ec.europa.eu/transport/themes/passengers/road_en which covers all the relevant requirements, including those which only apply to those on journeys over 250km and cross-border services.
- The Statutory instrument put in place in 2017 including the exemptions (some of which have now expired and others run until 2020 or 2021) <http://www.legislation.gov.uk/uksi/2017/99/contents/made>
- A useful summary of the exemptions made in Northern Ireland <https://www.global-regulation.com/law/united-kingdom/52429/the-bus-and-coach-passengers-rights-and-obligations-%2528designation-and-enforcement%2529-regulations-%2528northern-ireland%2529-2014.html>

Or contact Bus Users UK by emailing enquiries@bususers.org

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