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STATUTORY INSTRUMENTS

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**2005 No. 120**

**The Merseytram (Liverpool City Centre to Kirkby) Order 2005**

**PART 5**

**PENALTY FARES**

**Interpretation of Part 5**

**56.**—(1) In this Part, unless the context otherwise requires—

“authorised person” means, in relation to any purpose, a person authorised for that purpose by Merseytravel;

“fare ticket” means a ticket authorising the person in respect of whom it is issued to travel on a tramcar;

“general travel authority” means any permit, other than a fare ticket, authorising the person in respect of whom it is issued to travel on a tramcar;

“penalty fare” means a penalty fare payable pursuant to article 58;

“the penalty fare provisions” means articles 58 to 63; and

“tram system stop” means a station or other regular stopping place on the authorised tram system at which passengers may get on or off tramcars.

(2) Any reference in this Part to a person producing a fare ticket or general travel authority on being required to do so by an authorised person is a reference to producing, when so required, a fare ticket or general travel authority which, either by itself or together with any other document produced by that person at the same time, is valid for the journey he has made.

(3) For the purposes of paragraph (2), a person who is on a tramcar shall be taken to have made a journey ending at the next scheduled tram system stop.

**Operation of Part 5**

**57.**—(1) The penalty fare provisions shall have effect in relation to travel on any tramcar on and after such day as the Secretary of State may specify.

(2) On the application of Merseytravel, or if he suspects on reasonable grounds that Merseytravel is not complying with the requirements of this Part, the Secretary of State may provide that the penalty fare provisions shall cease to have effect on and after such day as he may specify.

(3) Paragraph (2) is without prejudice to the power of the Secretary of State to specify further days on and after which the penalty fare provisions shall have effect.

(4) Any day specified by the Secretary of State for the purposes of paragraph (1) or (2) shall be published in a newspaper circulating in Merseytravel’s area not later than one week before that date.

(5) No day may be specified under paragraph (1) except at the request of Merseytravel.

## **Penalty fares**

**58.**—(1) If a person travelling on a tramcar, on being required to do so by an authorised person, fails to produce a fare ticket or a general travel authority, he shall be liable to pay a penalty fare if required to do so by an authorised person.

(2) A person shall not be liable to pay a penalty fare if at the tram system stop where, and the time when, he boarded the tramcar and if on the tramcar there were no facilities for the sale of the necessary fare ticket for his journey.

(3) Paragraphs (4) and (5) have effect with respect to the burden of proof in any action for the recovery of a penalty fare under this article so far as concerns the question whether the facts of the case fall within paragraph (2).

(4) In any case where the defendant has provided the plaintiff with a relevant statement in due time it shall be for the plaintiff to show that the facts of the case do not fall within paragraph (2), and in any other case it shall be for the defendant to show that the facts of the case fall within that provision.

(5) For the purposes of paragraph (4)—

- (a) a relevant statement is a statement giving an explanation of the defendant’s failure to produce a fare ticket or general travel authority, together with any information as to his journey relevant to that explanation (including, in every case, an indication of the tram system stop where he boarded the tramcar); and
- (b) a statement is provided in due time if it is provided when the defendant is required to produce a fare ticket or general travel authority, or at any later time before the expiration of the period of 21 days beginning with the day following the day on which the journey is completed.

## **Amount of penalty fare**

**59.**—(1) Subject to paragraph (2), a penalty fare shall be £10 and shall be payable to Merseytravel before the expiration of the period of 21 days beginning with the day following the day on which the journey in respect of which it is payable is completed.

(2) Merseytravel may from time to time vary the amount of the penalty fare provided that—

- (a) the consent of the Secretary of State is obtained in writing to such a variation; and
- (b) a notice stating the amount of the penalty fare as so varied is published in a newspaper circulating in Merseytravel’s area not later than 28 days before the day on which the penalty fare, as so varied, is to take effect.

## **Document to be issued in connection with penalty fare requirement**

**60.**—(1) An authorised person who requires a person (referred to below as “the passenger”) to pay a penalty fare shall give him either a receipt for the payment of the amount of the penalty (where the passenger makes that payment to the authorised person) or a notice stating that the requirement has been made.

(2) A receipt or notice given under paragraph (1) shall specify the passenger’s destination on the tramcar on which he is travelling when required to pay the penalty fare, and shall operate as an authority to him to complete his journey to that destination.

(3) For the purposes of paragraph (2), the passenger’s destination shall (unless only one destination is possible in the circumstances) be taken to be the destination stated by the passenger or, in default of any statement by him identifying his destination, such destination as may be specified by the authorised person.

### **Notice of penalty fare provisions**

**61.**—(1) It shall be the duty of Merseytravel to secure that a warning notice meeting the requirements of paragraph (2) shall be posted—

- (a) at every tram system stop, in such a position as to be readily visible to prospective passengers; and
- (b) in every tramcar, in such a position as to be readily visible to passengers travelling on that tramcar.

(2) A warning notice posted pursuant to paragraph (1) shall (however expressed) indicate the circumstances (as provided in article 58) in which persons travelling on a tramcar may be liable to pay a penalty fare and state the amount of the penalty fare.

### **Supplementary provisions**

**62.**—(1) A person who is required to pay a penalty fare shall, unless he pays, immediately and in cash, the amount of the penalty fare to an authorised person requiring such payment, give to that authorised person, if that person requires him to do so, his name and address; and any person failing to do so shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(2) Where an authorised person requires any person to do anything pursuant to any provision of this Order he shall, if so requested by the person concerned, produce to that person a duly authenticated document showing his authority; and a requirement by an authorised person shall be of no effect if, as respects that requirement, he fails to comply with this paragraph.

### **Exclusion of double liability**

**63.**—(1) Where a person has become liable to pay a penalty fare in respect of any journey (referred to below as “the relevant journey”), no proceedings may be brought against him for either of the offences specified in paragraph (2) before the end of the period mentioned in article 59(1); and no such proceedings may be brought after the end of that period if—

- (a) he has paid the penalty fare to Merseytravel before the end of that period; or
- (b) an action has been brought against him for the recovery of that fare.

(2) The offences mentioned in paragraph (1) are—

- (a) any offence under byelaws made under article 50 involving a failure to obtain or produce a fare ticket or general travel authority for the relevant journey; and
- (b) any offence under section 25(3) of the Public Passenger Vehicles Act 1981(1) of contravening or failing to comply with any provision of regulations for the time being having effect by virtue of that section by failing to pay the fare properly payable for the relevant journey or any part of it.

(3) If proceedings are brought against any such person for any such offence he shall cease to be liable to pay the penalty fare and, if he has paid it, Merseytravel shall be liable to repay to him an amount equal to the amount of that fare.