
STATUTORY INSTRUMENTS

1986 No. 77

The Travel Concession Schemes Regulations 1986

PART II

ARRANGEMENTS BETWEEN OPERATORS AND AUTHORITIES

Reimbursement arrangements: general

3. Regulations 4 and 5 apply to the provisions of reimbursement arrangements with respect to participation of all operators in a scheme but subject, in the case of operators of eligible services, to the provisions of regulations 6 to 12.

4. It shall be an objective (but not a duty) of an authority when formulating reimbursement arrangements to provide that operators both individually and in the aggregate are financially no better and no worse off as a result of their participation in the scheme to which the arrangements relate.

5.—(1) Subject to regulations 4 and 12, and to paragraph (2) of this regulation, reimbursement arrangements adopted by an authority shall be so formulated that the costs to operators of providing concessions are met by the payments made by the authority to operators pursuant to section 93(6) of the Act.

(2) In paragraph (1) of this regulation, the reference to the costs to operators of providing concessions is a reference to the aggregate of—

- (a) the revenue by way of fares which the authority calculate that the operator has foregone or estimate that he will forego in consequence of the provision of the concessions in question, less any additional revenue from fares which they estimate he has received or will receive by reason of the availability of the concessions; and
- (b) any costs additional to basic operating costs which the authority calculate that the operator has necessarily incurred or estimate that he will necessarily incur in connection with providing concessions, less any reduction in basic operating costs which they estimate that he has achieved or will achieve by reason of the availability of the concessions.

Reimbursement arrangements: operators of eligible services

6. Regulations 7 to 12 apply to the provisions to be included in reimbursement arrangements with respect to participation of operators of eligible services in a scheme.

7.—(1) Subject to paragraph (2) of this regulation, it shall be an objective (but not a duty) of an authority when formulating reimbursement arrangements for operators of eligible services to provide that such operators receive appropriate reimbursement for providing concessions to the persons eligible to receive those concessions.

(2) In paragraph (1) of this regulation “appropriate reimbursement” in relation to an operator means appropriate in the light of the total number and fares value of journeys made by persons eligible to receive concessions on the services provided by that operator.

8.—(1) The payment periods and payment days shall be specified in the reimbursement arrangements and—

- (a) payment periods shall not be longer than three months; and
- (b) in relation to each payment period, the payment day shall not be later than the day which is half way between the first and last days of the payment period (and, in ascertaining the payment day, no account shall be taken of half days).

(2) Each reimbursement payment shall not be less than 85% of the amount estimated by the authority to be due to the operator in respect of the relevant payment period.

(3) The balance of each reimbursement payment shall be paid, subject to any adjustments shown to be necessary in the light of information available to the authority pursuant to arrangements giving effect to these Regulations, not later than 3 months after the end of the relevant payment period.

(4) Subject to paragraph (5) of this regulation, if any such balance as is mentioned in paragraph (3) of this regulation is not paid in accordance with that paragraph, provision shall be made for the authority to pay interest (at a rate not less than the lowest rate at which the authority are able to borrow at the time) on the amount for the time being unpaid for the period beginning with the last date on which the balance should have been paid in accordance with paragraph (3) and ending with the date of actual payment.

(5) Interest shall not be payable until a scheme has been in operation for 6 months nor in respect of any period falling wholly or partly within the first 6 months of operation of a scheme.

(6) If the amount of any reimbursement payment made in accordance with paragraph (2) of this regulation in respect of any payment period exceeds the total amount of that payment found to be payable in respect of that period, provision shall be made for the authority to notify the operator in writing accordingly and may thereafter deduct the amount of the excess from the reimbursement payments due to that operator in respect of any subsequent payment period.

(7) If the circumstances described in paragraph (6) of this regulation arise in relation to a person who is no longer an operator, the authority shall notify that person accordingly and, unless he disputes the existence or amount of the excess, that person shall pay the amount of the excess to the authority within 30 days of the date of receipt of the notification.

(8) Provision may be made for any reimbursement payment due in accordance with paragraphs (2) and (3) of this regulation to be made otherwise than in accordance with this regulation in any case where an operator fails to supply information in accordance with reimbursement arrangements giving effect to these Regulations—

- (a) in the case of a payment due in accordance with paragraph (2), in sufficient time to allow the authority to form a reasonable estimate of the amount of the payment; or
- (b) in the case of a payment due in accordance with paragraph (3), in sufficient time to allow the authority to calculate the amount of the payment.

(9) Subject to paragraph (8) of this regulation, provision shall be made for any reimbursement payment or any part of such a payment due to an operator in respect of concessions provided during any period of 12 months commencing on a date specified in the arrangements but not paid to be paid not later than 3 months after the expiry of that period.

9.—(1) Subject to paragraph (6) of this regulation, in relation to each scheme, the authority shall adopt a standard method to be used, subject to regulation 5, in determining—

- (a) the total number of the journeys made by persons eligible to receive concessions on the services of operators of eligible services participating in the scheme; and
- (b) the fares value to be attributed to those journeys.

(2) The standard method shall provide for the authority to take into account any data supplied by an operator who shows that the method by which such data was derived is more accurate than the standard method.

(3) Where the standard method does not provide for the recording of all such journeys as are mentioned in paragraph (1) of this regulation, that method may provide for—

- (a) the calculation of figures for the total number and fares value of those journeys by any means or combination of means which appears to the authority to be reasonable; and
- (b) if necessary, the apportionment of that number and fares value between all operators of eligible services participating in the scheme.

(4) Where the amounts of reimbursement payments are estimated or calculated otherwise than by reference to a standard method which provides for the recording of all the journeys mentioned in paragraph (1)(a) of this regulation, the estimates or calculations shall be adjusted if the information upon which they were based is shown to be inaccurate in any material respect.

(5) An authority who have reason to believe that the standard method used by them is inappropriate in relation to any particular operator of eligible services participating in the relevant scheme may, at their own cost and expense, make provision for a more accurate calculation of the total number and fares value of journeys in respect of that operator.

(6) Reimbursement arrangements need not comply with this regulation in any case where the authority and the operator so agree and any one of the following conditions are satisfied—

- (a) the vehicles normally used by him in providing services on which concessions are available have 8 or less seats available for fare-paying passengers;
- (b) the mileage run by such vehicles is less than 150,000 miles per annum within the area covered by the scheme during the times at which concessions are available;
- (c) except during the first 3 months of operation of a scheme, there has not expired a period of 3 months commencing with the date on which the operator is admitted to participation in the scheme in respect of a service or (if appropriate) becomes subject to the obligation imposed by a participation notice to provide concessions on a service.

10. Provision shall be made for an authority to review the calculations made in accordance with the standard method not less than once in each period of 12 months that the relevant scheme is in operation.

11.—(1) For any purposes relating to the calculation of reimbursement payments for operators of eligible services an authority may divide the area covered by a scheme into such number of parts as they consider to be appropriate.

(2) When calculating such payments an authority may take into account the carrying capacity provided for passengers in different vehicles or in different classes of vehicle.

(3) Except in any case where paragraph (2) of regulation 9 has effect, and also, in relation only to sub-paragraphs (b) and (c) of this paragraph, except in relation to any operator of an eligible service whose fares for journeys on that service include a special amenity element (within the meaning of section 96(6) of the Act), calculations of fares value in relation to a particular operator of eligible services may be based on—

- (a) the fares normally paid by passengers on a service or services provided by that operator;
- (b) the average of all such fares; or
- (c) the average of all the fares normally paid to all operators of eligible services participating in the scheme in question.

12.—(1) Provision shall be made for additional reimbursement payments pursuant to regulation 5 in any case where the operator demonstrates to the authority—

- (a) that he has necessarily incurred costs additional to basic operating costs and attributable to an increase in the number or the capacity of the vehicles used in providing services on which concessions are available in order to meet the extra demand created by the availability of those concessions; and
 - (b) that those costs are such that they will not be met by reimbursement payments made in accordance with the standard method during the year in which the costs are incurred or during the 3 months immediately following the end of that year.
- (2) A similar provision shall be made in any case where the operator demonstrates to the authority—
- (a) that he has supplied any information required in accordance with reimbursement arrangements; and
 - (b) that in doing so he has incurred expenditure which he would not otherwise have incurred.

Reimbursement arrangements: further provisions

13. Regulations 14 to 21 apply to the provisions that are to be or (as the case may be) may or may not be included in reimbursement arrangements with respect to participation of operators of eligible services in a scheme.

14. Any information supplied by an operator to an authority pursuant to arrangements giving effect to this regulation and regulations 15 to 21 may only be used for and in connection with the calculation of reimbursement payments and such information shall not be disclosed by the authority except—

- (a) with the consent in writing of the operator; or
- (b) to the extent to which the information in question has become public knowledge otherwise than by the act or omission of the authority.

15. Information may not be required on any of the following subjects—

- (a) the cost to the operator of providing any service or services on which concessions are available;
- (b) the total turnover of the business, or of any part of the business, of an operator; and
- (c) the annual rate or amount of the profit or loss of that business, or of any part of it.

16.—(1) This regulation applies to information on or concerning the following subjects—

- (a) the total number of passengers of all descriptions carried by an operator on services on which concessions are at any time available; and
- (b) the amount of the fares received by the operator from such passengers.

(2) Subject to paragraph (3) of this regulation, an operator may only be required to supply information to which this regulation applies in relation to all the services which he provides and on which concessions are available.

(3) Where in pursuance of regulation 11(1) arrangements provide for the division of the area covered by a scheme into different parts, an operator may be required to supply information to which this regulation applies in relation to each part, but not if this will require him to disclose the numbers of passengers carried on any particular service or group of services provided by him or (as the case may be) the amount of the fares received by him from those passengers.

(4) Provision may be made, in any case where information to which this regulation applies is supplied in accordance with arrangements giving effect to this regulation, for the information to be accompanied by a certificate of its accuracy and completeness given by a responsible person.

(5) In paragraph (4) of this regulation “responsible person” means a person who is a member of one or more of the following bodies—

- (a) the Institute of Chartered Accountants in England and Wales;
- (b) the Institute of Chartered Accountants of Scotland;
- (c) the Chartered Association of Certified Accountants.

17.—(1) This regulation applies to operators of eligible services in respect of whom any one of the following conditions are satisfied—

- (a) the vehicles normally used by him in providing services on which concessions are available have 8 or less seats available for fare-paying passengers;
- (b) the mileage run by such vehicles is less than 150,000 miles per annum within the area covered by the scheme during times at which concessions are available;
- (c) except during the first 3 months of operation of a scheme, there has not expired a period of 3 months commencing with the date on which the operator is admitted to participation in the scheme in respect of a service or (if appropriate) becomes subject to the obligation imposed by a participation notice to provide concessions on a service.

(2) Without prejudice to regulation 9(6), an operator to whom this regulation applies may not be required to supply any information to which regulation 16 applies.

18.—(1) Subject to paragraph (2) of this regulation, information on any subject except that mentioned in regulation 16(1)(b) may not be required to be supplied more frequently than once in every 28 days nor in respect of periods of less than 28 days.

(2) Information on the subject mentioned in regulation 16(1)(b) may not be required to be supplied more frequently than once in every 3 months nor in respect of periods of less than 3 months.

19. An authority may require an operator to allow their officers, servants or agents to have access with reasonable frequency to (including the right to travel free of charge on) the vehicles of the operator on which concessions are available for the purpose of—

- (a) surveying or counting or estimating the number of passengers (whether generally or of any particular description) and the fares paid by those passengers; and
- (b) obtaining information on other matters relating to the journeys made by passengers who are eligible to receive concessions and necessary to the calculation by the authority of reimbursement payments.

Installation and use of equipment

20.—(1) Subject to paragraph (2) of this regulation, an operator may be required to have in his vehicles, and to use, equipment provided by the authority for the purpose of issuing and cancelling tickets or otherwise recording the numbers and descriptions of passengers on those vehicles.

(2) The costs and expense of providing, installing, using and maintaining any such equipment are to be borne by the authority.

(3) Without prejudice to regulation 16, an operator may not be required to supply to the authority information derived from the use of any such equipment and relating to journeys by passengers not eligible to receive concessions.

Changes in services and fares

21. Provision may be made for an operator to inform the authority of any changes in the services operated by him on which concessions are available, and of any changes in the fares payable by

passengers on those services, in either case when the change takes effect or not later than 7 days thereafter.

Arrangements other than reimbursement arrangements

22. Regulations 23 to 26 apply to the provisions that are to be or (as the case may be) may or may not be included in arrangements, other than reimbursement arrangements, with respect to participation of all operators in a scheme.

23. An authority may not require an operator to give more than 42 days notice before withdrawing in respect of any service from participation in a scheme.

Employment of administering agents

24.—(1) An authority may not employ as their agent for the purposes of the administration of reimbursement arrangements any person who is a holder of a PSV operator's licence.

(2) Where the authority are a Passenger Transport Executive, or are both a local authority and a Passenger Transport Executive, the consent of the Passenger Transport Authority for the Executive's area shall be obtained to the employment of any such agent.

Recognition and acceptance of tickets etc

25.—(1) An authority may require an operator—

- (a) to recognise and accept any particular form of ticket, voucher, token or pass issued by the authority;
- (b) to display on his vehicles a sign or other identifying mark of a size sufficient for its purpose showing that concessions are available on those vehicles.

(2) An authority may not require an operator—

- (a) to allow passengers, either generally or of any particular description, to travel on his vehicles without purchasing a ticket or possessing (as appropriate) a voucher, token or pass;
- (b) to use a particular type of vehicle to provide services on which travel concessions are available;
- (c) to reserve a specified number or proportion of the seats on his vehicles solely for use by persons eligible to receive travel concessions.

General restriction on interference with the manner of providing services

26. Except where done to give effect to this Part of these Regulations, arrangements may not include provisions compliance with which would require the operator to alter the manner in which he provides the services on which concessions are available.