

**EXPLANATORY MEMORANDUM TO**  
**THE TRAVEL CONCESSIONS (EXTENSION OF ENTITLEMENT) (ENGLAND)**  
**ORDER 2005**

**2005 No. 3224**

1. This explanatory memorandum has been prepared by the Department of Transport and is laid before Parliament by Command of Her Majesty.

**2. Description**

2.1 The Order amends sections 145, 146 and 162 of the Transport Act 2000; and section 242 of the Greater London Authority Act 1999. It will guarantee free off-peak local bus travel for people aged 60 and over and disabled people.

**3. Matters of special interest to the [Joint Committee on Statutory Instruments *or* the Select Committee on Statutory Instruments]**

3.1 None

**4. Legislative Background**

4.1 The Order is made under powers conferred in sections 147 and 160(1)(c) of the Transport Act 2000; and section 242(10) of the Greater London Authority Act 1999. These sections in the Transport Act 2000 allow the Secretary of State to amend the Transport Act in order to vary the statutory minimum concession for older and disabled persons. These sections of the Greater London Authority 1999 allow the Secretary of State to extend the scope of voluntary concessionary arrangements made under section 240 of this act to include the new required minimum, failing which a more stringent obligatory scheme will be imposed from 1<sup>st</sup> April 2006 instead under section 241.

4.2 Section 145 of the Transport Act 2000 places a statutory requirement on local authorities outside London to provide at least half-fare off-peak local bus travel to elderly and disabled people, with no charge for the pass. Travel concessions for older and disabled people outside London are the responsibility of District and Unitary Councils, or in metropolitan areas, the Passenger Transport Executives.

4.3 Section 151 of the Transport Act 2000 amends the Greater London Authority Act 1999 and extends the statutory minimum requirement to London. Under the Greater London Authority Act, the London Boroughs must agree a scheme with Transport for London (TfL) annually. The Chancellor announced in the Budget on 16 March that, from April 2006, the statutory minimum requirement would be increased to free off-peak local bus travel. [Official Report, 16 March 2005: Column 269]

## **5. Extent**

5.1 This instrument applies to England.

5.2 Concessionary travel is a devolved matter in Wales, where free bus travel has already been introduced through The Travel Concessions (Extension of Entitlement) (Wales) Order 2001 (Welsh SI 2001/3765).

## **6. European Convention on Human Rights**

The Parliamentary Under Secretary of State for Transport has made the following statement regarding Human Rights:

In my view, the provisions of the Travel Concessions (Extension of Entitlement) (England) Order 2005 are compatible with the Convention.

## **7. Policy background**

7.1 The purpose of this instrument is to introduce free off-peak local bus travel for people aged 60 and over and disabled people by amending the relevant legislation.

7.2 Currently, older and disabled people are guaranteed a free pass giving them at least half-fares on their local bus services. Local authorities are able to offer more generous schemes at their own discretion, including measures such as free travel or concessions on other modes. However, this has led to a variation in provision across the country. The Order will reduce this disparity while retaining local authorities' ability to provide alternative schemes if they wish.

7.3 In London, older and disabled people already receive free bus travel underpinned by a reserve free travel scheme which comes into force if the London Boroughs and TfL cannot reach agreement. However, it is technically possible for the boroughs and TfL to agree a scheme that, for buses, only reaches the statutory half-fare requirement. The Order will ensure that this minimum is increased to free bus travel, as elsewhere.

7.4 The Government has received many representations calling for free travel to be extended to all older and disabled people. Bus travel is the most used form of transport for pensioners. We estimate that around 2 million - approximately 20% - older and disabled people in England already receive free off-peak local bus travel, with no charge for the pass, of whom most are in London. Free off-peak bus travel is already in place for older and disabled people in Wales, Scotland and Northern Ireland.

## **8. Impact**

8.1 A Regulatory Impact Assessment is attached to this memorandum.

## **9. Contact**

Matt Coleman at the Department for Transport Tel: 020 7944 2157 or e-mail: matt.coleman@dft.gsi.gov.uk can answer any queries regarding the instrument.

## **Regulatory Impact Assessment**

### **Introduction**

This Regulatory Impact Assessment estimates the costs and benefits of the Travel Concessions (Extension of Entitlement) (England) Order 2005.

### **Purpose and intended effect**

#### Objective

To introduce guaranteed free off-peak local bus travel in England for people aged 60 and over and disabled people from April 2006.

The policy will apply only to England. Free bus travel arrangements are already in place in Wales, Scotland and Northern Ireland.

#### Background

Travel concessions for older and disabled people outside London are the responsibility of District and Unitary Councils, or in metropolitan areas, the Passenger Transport Executives (PTEs). The Transport Act 2000 places a statutory minimum requirement on them to provide at least half-fare off-peak local bus travel, with no charge for the pass. This requirement came into force on 1 June 2001.

Concessions were extended to men aged between 60 and 65 by The Travel Concessions (Eligibility) Act 2002. Authorities are able to offer more generous or alternative schemes at their own discretion using powers in the Transport Act 1985.

In London, under the Greater London Authority Act 1999, the London Boroughs must agree a concessionary fare scheme for older and disabled people annually with Transport for London (TfL).

#### Rationale for government intervention

The Government has received many representations from MPs, pensioners' groups and the public calling for free travel to be extended to all older and disabled people. Bus travel is the most used form of transport for pensioners. Although local authorities are able to offer more generous schemes at their own discretion, including free travel, this has led to a variation in provision across the country. The Order will reduce this disparity while retaining local authorities' ability to provide alternative schemes if they wish.

Wales, Scotland and Northern Ireland have already introduced free off-peak bus travel for older and disabled people. In England, we estimate that around 2 million - approximately 20% - older and disabled people in England already receive free off-peak local bus travel, with no charge for the pass, of whom most are in London.

Without the Order, free travel will remain at the discretion of local authorities. Authorities could pare back this provision in the face of other pressures on funds. This would have a negative impact on social inclusion for older and disabled people.

## **Consultation**

The change is widely anticipated and has been reported in the press following the announcement in the 2005 Budget. The Department for Transport (DfT) has set up a Concessionary Fares Working Group (CFWG) to help implement the improved entitlement. The group consists of representatives from local authorities, the Passenger Transport Executives and the Confederation of Public Transport (CPT). We have also discussed the change with Help the Aged and the Disabled Persons Transport Advisory Committee.

## **Options**

It was announced in the Budget on 16<sup>th</sup> March 2005 that the minimum entitlement would be extended from half to free-fare on local bus services.

## **Costs and benefits**

### Costs to local authorities

The Travel Concessions (Extension of Entitlement) (England) Order 2005 will require travel concession authorities<sup>1</sup> to revise their existing concessionary fare schemes to provide free off-peak local bus travel within their area: it will not require authorities to devise new schemes nor will it involve new bus operators entering the market.

The main impact will be on authorities who will need to publicise the new entitlement and issue passes, free of charge. All authorities have been required to offer concessionary travel schemes since 2001, and most already had schemes in place for a number of years before this. The issuing of passes is not therefore a new administrative burden on local authorities, though the size of this burden will probably increase with higher uptake of the benefit. However, there will be some negotiating costs for local authorities and bus operators over the new reimbursement rates and costs involved in reviewing and reissuing reimbursement arrangements, but these are assumed to be relatively small.

It is estimated that increasing entitlement to free fares will cost £350 million a year. It is proposed that the extra funding will be distributed to local authorities through the Revenue Support Grant (RSG) system. As with all RSG funding, this will not necessarily distribute money precisely in accordance with the requirement to increase spending at a local level. The Government is however satisfied that local authorities collectively will have sufficient funds to meet operators' revenue foregone and additional costs.

### Costs to bus operators

The impact on bus operators will be dependent on the fairness of the reimbursement arrangements adopted by authorities and on the quality of administration of each scheme. Bus operators already charge eligible persons - those carrying a valid concessionary fares bus pass - a reduced fare in accordance with schemes operated by the relevant authority. Authorities are obliged to reimburse bus operators for revenue foregone and extra costs incurred and to do so in such a way that the bus operators are no worse or better off as a result of participating in the concessionary travel scheme. Any costs associated with increased passenger numbers may be taken into account in the reimbursement arrangements. In assessing revenue foregone,

---

<sup>1</sup> The travel concession authority is the district or unitary authorities in shire areas. In metropolitan areas, it is the PTE (although the metropolitan districts may also be involved in its administration). All 'travel concession authorities' are subsequently referred to as 'authorities'.

operators and local authorities will also need to give consideration to the likely level of commercial fares that would have been charged by operators in the absence of a scheme.

The reimbursement currently includes the costs of providing extra capacity as a result of the scheme, net of any additional fares from trips that are generated where extra capacity takes the form of increased frequency. The reimbursements are based on existing official guidance and on negotiations between local authorities and bus operators over the level of trips generated by the concessionary scheme and any extra costs incurred.

Because the initial reimbursements will be based on forecasts of extra trips there is scope for some over or under reimbursement. The DfT has developed a toolkit to help authorities calculate how much to reimburse operators. The methodology should help in negotiations.

An operator can appeal to the Secretary of State if it believes that the arrangements fail to compensate adequately for revenue foregone and additional costs incurred. The Secretary of State can require the arrangements to be modified and financial redress to be made.

The reimbursement arrangements for reduced-fare schemes are well tried and tested but some settlements have been delayed under the previous half fare scheme. If these delays persist in a free-fare regime, operators may suffer cash flow penalties.

Although schemes are required to be cash-flow-neutral in the long term, operators covered by schemes that make payments in the mid point of a quarterly accounting period will still have to pay their staff and suppliers for the first half of the first period, with significantly less cash available. On the other hand, payment ahead of costs being incurred in the second half should offset this impact.

Schemes may also have other impacts on operators' cost bases. These include factors which increase or reduce net costs, such as revenue abstraction from ineligible cross boundary trips, other changes in trip patterns including generated farebox revenue, insurance claims, increased boarding times, reduced cash handling costs. In general, it is appropriate for these issues to be dealt with locally as part of the assessment of additional costs.

#### Small bus operators and other public transport operators

If small operators have less information about the changes in patronage that result from concessionary fare schemes they could lose in negotiations. It is expected that local authorities will take this into account. The guidance being issued by DfT could be particularly useful to smaller operators.

The cash flow implications of receiving all the revenue for entitled people's trips from the concession authority, rather than receiving some immediately in cash, may be particularly significant for small bus operators.

Some "bus" operators not covered by BSOG such as those providing community transport services or demand responsive transport and, therefore, not covered by the concessionary fares scheme could be placed at a disadvantage if there is loss of patronage that results in an increase subsidy per passenger.

The concessionary fare scheme does not extend to other forms of public transport such as trams, trains and taxis. In the case of trams and trains, if the authority does not match the scheme for buses, there could be some loss of patronage particularly from those with low values of time. It will be for the local authority to decide whether local travel needs are best served by changing fares in line with those charged on bus services, depending on local policy

and financial priorities. They will receive no additional funding for these discretionary payments.

Taxis could be affected by a loss of patronage but they operate in a significantly different market providing door-to-door access not available by bus. One effect could be to induce taxis to operate with lower off-peak fares that could widen the market and benefit existing users.

### Sectors and groups affected

Census data shows that, in 2001, 10.2m people were aged 60 years and over. Of these 20% are at present entitled to claim passes for free fares, 13% are entitled to passes for flat fares (by rate) and 67% are entitled to passes for half fare. Average take-up in England was 49% in 2003, ranging from 25% in rural areas to 80% in London where fares are free. On average around three trips a week are made by pass holders with an average travel distance of four miles. The number of trips for existing pass holders is expected to increase to four a week with the introduction of free fares.

The information on the number of disabled people is fairly limited. One estimate is that there are around 2m people under the age of 60 outside London who would be entitled to concessionary travel but there is no information on take-up rates or trips per week.

This indicates that about 5m people over 60 and around 1m (assuming the same 49% average take-up rate as those 60 and over) disabled persons could benefit from free fares, with existing concessionary fare pass-holders saving an average of 50p per trip or £70 per annum. These numbers will increase as take-up rates increase, though the trip rate is likely to be lower for new pass holders. If car ownership continues to increase the cohort effect will mean that car ownership or use will rise faster among the over 60s. This will dampen the overall effect of the improved concessionary fare entitlement.

People over 60 who do not have access to a car will benefit more than those who do as they make significantly more trips by bus. Also females, disabled people and ethnic groups such as Bangladeshi, Black, and Mixed, use buses significantly more than other groups and, as a result, will benefit more from the improved statutory minimum entitlement.

People over 60 and disabled people are more likely to benefit if they are in high density locations with low levels of car ownership and higher levels of public transport provision. This is reflected in higher costs in areas such as Tyne and Wear.

### Analysis of costs and benefits

The Government has allocated £350m to cover the costs of changing from half to free fares for the over 60s and disabled people. This will be distributed among local authorities, including those already providing concessionary travel schemes above the statutory minimum entitlement.

Central government will receive more tax revenues if the money spent on zero VAT fares is spent on taxable goods and services. The tax increase could amount to £54m. The net total cost to government could therefore be £296m.

Consumer benefits are estimated to be between £390m and £400m. This has been estimated using the rule of half (this measures the change in consumer surplus as a result of a change in

fares) with a fare elasticity of -0.4. It also takes account of the benefit to council tax payers in existing free fare areas. The overall increase in trips is 37% which compares with the 31% difference in average trips made in flat fare PTEs compared with free fare PTEs but flat fares are, on average, 7% lower than average half fares.

The change from half to free fare should see an increase in the take-up rate of concessionary fare passes. The difference between take-up rates in the two PTE areas where free fares have already been introduced and flat fare PTEs is around 10%. However, the trip rates of new pass holders will be significantly less than existing pass holders. Evidence from Wales suggests that trip rate for new pass holder is two trips a week compared with four for existing pass holders. Therefore, a 5% increase in trips is assumed. This results in an estimated increase in concessionary fare trips of 44%, slightly higher than the increase recorded in Wales of 41%.

The overall net benefit is estimated to be between £96m and £105m but this excludes non-monetised benefits such as decongestion and environmental benefits, if there is any mode shift from car, and any reduction in social exclusion.

No allowance has been made for the impact on boarding and alighting times as a result of the increase in trips after 9.30am. This could have an effect on fare paying passengers but it is not considered to be significant.

Summary of estimated costs and benefits

	No change in take-up	Increase in take-up
<b>Estimated costs</b>		
Reimbursement	350	350
Tax revenue	54	54
<b>Total estimated cost to government</b>	<b>296</b>	<b>296</b>
<b>Estimated benefits</b>		
Consumer surplus	390	400
Additional benefits		
Decongestion	?	+
Environmental	?	+
Social exclusion	+	+
<b>Total estimated benefits</b>	<b>390+</b>	<b>400+</b>

**Small Firms Impact Test**

Smaller firms may be less likely to be invited to negotiate reimbursement arrangements with authorities. They may also be less able to engage consultants to argue against financial arrangements made by concession authorities if there is unlikely to be a net gain. Small firms running “niche” services that are designed to appeal to older or disabled people may be at risk of severe cash flow penalties when free schemes are introduced unless the schemes include “on account” cash payments from the outset, which is currently rare.

Smaller firms may find it more difficult to raise funds to put on extra capacity such as more frequent services and larger buses, and may find that “full fare” passengers are displaced by concessionary riders, for whom they receive less revenue per trip. However, smaller firms are

often active in the second hand market for buses and may therefore be able to expand services without incurring large investment.

### **Competition assessment**

Within the bus industry there is unlikely to be any impact on market structure. There may be some adverse impact on other public transport modes if there are no discretionary fares for other modes. If this is the case then there will be a switch from these modes to buses. This could have a significant effect on the viability of other modes and the willingness of the private sector to take on revenue risk in future. In the Lothians and Strathclyde, a survey showed that 53% of rail passengers eligible for a bus concessionary fare opted to use a bus instead of a train. Depending on journey purpose and distance that can be travelled within concessionary areas, it is likely that there will be a significant switch from tram to bus if buses are free and trams charge a fare.

### **Enforcement, sanctions and monitoring**

As with the current half-fare entitlement, if voluntary participation cannot be agreed an authority can serve a participation notice on an operator for a specific service or services, subject to a minimum period of notice of 28 days.

An operator subject to a participation notice must offer concessionary fares from the date set by the authority. If an operator systematically fails to comply with their obligations they will be guilty of an offence and liable, on summary conviction, to a fine.

Monitoring arrangements will continue to be the responsibility of authorities.

### **Implementation and delivery plan**

The change in the minimum statutory entitlement will come into effect from 1<sup>st</sup> April 2006. Authorities are required to give bus operators at least 4 months notice of change in reimbursement arrangements.

### **Post-implementation review**

The CFWG will continue meeting after the introduction to review implementation, so that any actions can be taken if required. The National Transport Survey will be used to look at the effects of the change in the minimum statutory take-up on bus patronage.

### **Summary and recommendation**

The £350m of funding for 2006/07 will be sufficient to cover the costs to authorities of reimbursing bus operators on a no better/no worse off basis. The change in the statutory minimum entitlement from half to free-fare on local bus services could benefit 5m people over 60 and about 1m disabled people. The estimated overall net monetised benefit is between £94m and £104m. There will also be non-monetised benefits from the reduction in social exclusion, and decongestion and environmental benefits from any modal-shift from car to bus.



## **Declaration and publication**

I have read the Regulatory Impact Assessment and I am satisfied that the benefits justify the costs.

Signed Karen Buck

22 nd November 2005