

EXPLANATORY MEMORANDUM TO
THE ROAD TRANSPORT (INTERNATIONAL PASSENGER SERVICES)
REGULATIONS 2018

2018 No. 1395

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department for Transport and is laid before Parliament by Command of Her Majesty

2. Purpose of the instrument

- 2.1 The instrument updates legislation for Great Britain (GB) concerning international passenger travel by bus and coach. This is to give effect to the existing requirements of EU market access arrangements and the Interbus Agreement (Interbus), a multilateral agreement on international coach travel to which the UK is party through its status as an EU member State. The instrument makes a range of implementing provisions such as designation of competent authorities for the granting of licences (described in section 7.3) authorisations, and own account transport operations and makes provision for the operation of non-UK registered coaches in Great Britain including exemptions from specific aspects of GB legislation, and the establishment of offences for non-compliance with market access rules.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

- 3.2 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

4. Extent and Territorial Application

- 4.1 The territorial extent of this instrument is England, Scotland and Wales.
4.2 The territorial application of this instrument is England, Scotland and Wales.

5. European Convention on Human Rights

- 5.1 The Parliamentary under Secretary of State for Transport, Nusrat Ghani has made the following statement regarding Human Rights:

“In my view the provisions of the Road Transport (International Passenger Services) Regulations 2018 are compatible with the European Convention on Human Rights.”

6. Legislative Context

- 6.1 The instrument updates GB legislation relevant to international passenger travel by bus and coach, both in terms of issuance of licences, authorisations and certificates to

GB-based operators who wish to undertake international work, and also the updating of legislation on the operation of non-UK registered buses and coaches operating in GB. To date these provisions have been contained within the Road Transport (International Passenger Services) Regulations 1984 (the 1984 Regulations) and the Public Service Vehicles (Community Licences) Regulations 2011 (the 2011 Regulations).

- 6.2 The 1984 Regulations implemented European Community international bus and coach travel regulations as they then stood; designating competent authorities for issue of authorisations and other documents, making provisions for penalties and enforcement, and providing exemptions from GB domestic legislation for non-UK registered buses and coaches operating in GB (for example, the need to otherwise hold a GB-issued Public Service Vehicle Operator's Licence). The European Community regulations referenced in the 1984 Regulations have on the whole been superseded, and equivalent, updated provisions are therefore required. New provisions are also required in respect of buses and coaches entering the UK under the terms of Interbus. Interbus and the UK's intended status in Interbus after leaving the EU, are described further under 'Policy Background' at section 7.
- 6.3 The 1984 Regulations are not revoked by the new instrument. This is because they also make provision for the operation of non-EU (and non-Interbus) buses and coaches in GB, and they are retained for this residual purpose.
- 6.4 The 2011 Regulations gave effect in GB to aspects of Regulation (EU) No. 1073/2009 (Regulation 1073/2009), on common rules for access to the international market for bus and coach services. Their provisions cover matters including the issuing of Community Licences to GB bus and coach operators, and various offences. However, they do not bring up to date the aspects of the 1984 Regulations which dealt with exemptions from GB domestic legislation for foreign buses and coaches.
- 6.5 The 2011 Regulations are revoked by the instrument so as to bring together in one instrument all provisions relevant to the operation of the current EU international bus and coach market access system, and Interbus, within GB.
- 6.6 Neither the instrument, nor the 1984 and 2011 Regulations, extend to Northern Ireland, where passenger transport is a devolved issue. Separate, though broadly similar, Northern Ireland legislation applies, and the Northern Ireland Department for Infrastructure intends to update its legislation in due course
- 6.7 The instrument does not make any direct provision for any change that may be required as a result of the UK leaving the EU; it uses the power in Section 2(2) of the European Communities Act 1972 to implement EU derived obligations as they exist today in accordance with Regulation 1073/2009 and Interbus. The Government intends to lay a separate instrument in due course which will address any inoperabilities in this policy area which will arise from EU withdrawal, using powers in the European Union (Withdrawal) Act 2018.

7. Policy background

What is being done and why?

- 7.1 The instrument brings together in one measure existing legislation, namely, provisions in the 2011 Regulations and the requirements of Interbus for international passenger transport by coach and bus. This area of transportation makes an important

contribution to UK-EU passenger movement: there were 170,300 bus and coach movements between GB and the continent in 2016. The UK tourism industry also benefits from incoming bus and coach travel by foreign operators with £1.2 billion spent as a result of coach journeys (UK Tourism Survey 2008).

- 7.2 The instrument gives continuing effect in GB to Regulation 1073/2009, which governs international carriage of bus and coach passengers between member States (and cabotage rights within member States). It also gives effect to Interbus which governs occasional international bus and coach travel (e.g. holidays and tours) between its contracting parties, one of which is the EU as a whole.
- 7.3 Regulation 1073/2009 allows for the provision of regular (timetabled), special- regular (timetabled), occasional (non-timetabled) services by operators established in member States and EEA States. In order to run international services under Regulation 1073/2009, operators require a Community Licence; those licences are available to operators who meet the requirements set out in Regulation (EC) No 1071/2009, establishing common rules concerning the conditions to be complied with to pursue the occupation of road transport operator. Community Licences are issued to GB-based operators by the Traffic Commissioners.
- 7.4 A regular bus or coach service carried out under Regulation 1073/2009 also requires an authorisation (issued to GB operators by the International Road Freight Office, on behalf of the Secretary of State), and occasional services like coach holidays and tours require the operators to complete a control document which details the vehicle's itinerary and passengers.
- 7.5 Regulation 1073/2009 also provides that international bus and coach travel by 'own-account' carriers is subject to a system of certificates. An own account operation refers to a bus or coach operation for non-commercial and non-profit making purposes by a person for whom transport is only an ancillary activity.
- 7.6 By virtue of membership of the EU, the UK is a party to Interbus. This is a multilateral treaty currently in force between eight contracting parties; the EU, plus seven non-EU contracting parties in Eastern Europe. The UK therefore currently participates in the agreement through its status as an EU member state." It provides liberalised access for occasional international coach services that is broadly equivalent to the EU rights for occasional services.
- 7.7 The UK will re-join Interbus as an independent contracting party after the UK has left the EU. A command paper on this subject was laid before Parliament on 12 September 2018.
- 7.8 In respect of Regulation 1073/2009, the instrument contains a number of provisions which continue the effect of equivalents in the 2011 Regulations. It identifies the Traffic Commissioners as the competent authority in respect of Community Licences (Regulation 4(1)(a) of the instrument); confirms eligibility to receive a Community Licence (Regulation 9); sets out the basis for withdrawal of a Community Licence and the rights of appeal (Regulations 10 and 11); and confirms the continued role of the Secretary of State as the competent authority for the issue of regular service authorisations (Regulation 4(1)(b)).
- 7.9 The instrument also confirms the Secretary of State as the competent authority for issuing of own-account certificates (Regulation 4(4)) and confirms the Confederation of Passenger Transport (CPT), the trade organisation for the bus and coach sector, as the body which may issue the waybills required for occasional and cabotage services,

to bus and coach operators (Regulation 4(3)). The instrument provides that waybills used by GB operators for cabotage services must be returned to the Secretary of State by the 31 March following the end of the calendar year in which they have been used (Regulation 8); this implements the requirement set out in Article 17(5) of Regulation 1073/2009.

- 7.10 The instrument provides that non-UK buses and coaches operating in GB, in compliance with either Regulation 1073/2009 or the Interbus Agreement (i.e. being correctly licensed and carrying the correct documentation) are exempted from aspects of GB domestic law (Regulation 5); specifically, it exempts them from the need to have and display a GB-issued Public Service Vehicle (PSV) operator's licence, the need to have a "Certificate of Initial Fitness" for the vehicle, and any potential need to register their service with the GB authorities as a "local bus service" which could otherwise be required, depending on distances between their pick-up and drop-off points within GB. Without these exemptions, additional barriers would be put in the way of operation within GB which would conflict with the terms of the international access agreements.
- 7.11 The instrument confirms which persons have the right to stop vehicles, and conduct checks, where it appears that a form of international licence or authorisation may be required (Regulation 13). It also amends Schedule 1 and 2 of the Road Traffic (Foreign Vehicles) Act 1972, to confirm that examiners may prohibit foreign vehicles from driving on the road where correct documentation is not held (regulation 15).
- 7.12 The instrument also establishes that it is an offence to fail to meet certain obligations and /or requirements of either Regulation 1073/2009 or the Interbus Agreement. The instrument also codifies the potential offences within attached Schedules to provide a clear understanding of possible infringements for both operators and enforcement agencies.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

- 8.1 Whilst this instrument does not amend inoperabilities caused through application of the European Union (Withdrawal) Act 2018 it does update legislation to allow correct application of the Act. The new Regulations ensure that the Interbus Agreement referred to in section 7.6 is reflected in domestic legislation which can then be corrected by the European Union (Withdrawal) Act 2018

9. Consolidation

- 9.1 The Government will replace the 2011 Regulations with the instrument.

10. Consultation outcome

- 10.1 No formal consultation has been carried out. This is because the instrument will update the law that supports activity as it currently takes place, so it will not have any noticeable effects on how matters are administered or enforced. The Department has had discussions with the Confederation of Passenger Transport as the trade representative body for the bus and coach industry and with the Driver and Vehicles Standards Agency as the relevant enforcement agency.

11. Guidance

- 11.1 Guidance is not required as the instrument will not have significant effect on how any processes relating to international bus and coach travel are currently administered. For example, there will be no change to the documentation that bus and coach operators will need and there will be no change to the process for bus and coach operators to obtain Community Licences.

12. Impact

- 12.1 There is no, or no significant, impact on business, charities or voluntary bodies
- 12.2 There is no, or no significant, impact on the public sector.
- 12.3 An Impact Assessment has not been prepared for this instrument because of the low level of impact per business.

13. Regulating small business

- 13.1 The legislation applies to activities that are undertaken by small businesses.
- 13.2 The Government is updating legislation that regulates the access arrangements the UK has with other countries. There will be no change to the administrative practices currently in place and, as such, there will be no effect on, or cost to business.

14. Monitoring & review

- 14.1 The Regulations do not include a statutory review clause and, in line with the requirements of the Small Business, Enterprise and Employment Act 2015 Nusrat Ghani has made the following statement:

“A statutory review clause would be disproportionate taking into account the economic impact of the regulatory provision on the qualifying activity”.

15. Contact

- 15.1 Mark Heverin at the Department for Transport Telephone: 07977 435947 or email: mark.heverin@dft.gov.uk can be contacted with any queries regarding the instrument.
- 15.2 Catriona Henderson, Deputy Director for Buses and Taxis, at the Department for Transport can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Nusrat Ghani at the Department for Transport can confirm that this Explanatory Memorandum meets the required standard.