



OFFICE *of the*  
RAIL REGULATOR

## **THE PENALTY FARES RULES 1997**



## **1. The Rules**

1. These rules (the "Rules") are made by the Regulator pursuant to regulation 11 of the Railways (Penalty Fares) Regulations 1994 made under section 130 of the Railways Act 1993.
2. These Rules may be cited as the "Penalty Fares Rules 1997".
3. The Rules shall come into effect on 28 April 1997.

## **2. Interpretation**

In these Rules:

- (a) the "Act" means the Railways Act 1993;
- (b) the "Regulations" means The Railways (Penalty Fares) Regulations 1994 (S.I. 1994/576);
- (c) unless the context otherwise requires:
  - (i) "Authorised Collector" means a collector authorised to impose penalty fares pursuant to Rule 6;
  - (ii) "Compulsory Ticket Area" means any area at a station identified by a notice which indicates that persons may not enter that area without being able to produce a ticket or other authority authorising travel on a train arriving or departing from that area or otherwise authorising entry into that area;
  - (iii) "Operator", in relation to any train or station, means the person who is required to hold a licence or an exemption in respect of the operation of such train or station by virtue of section 6 of the Act and "Train Operator" and "Station Operator" shall be construed accordingly;
  - (iv) "National Conditions of Carriage" means the National Conditions of Carriage approved by the Regulator on 23 July 1995 as amended from time to time with the approval of the Regulator;

- (v) any reference to a person leaving a train includes a person present in or leaving a Compulsory Ticket Area having left a train arriving at that Compulsory Ticket Area;
- (vi) where the terms on which a ticket or other authority is issued require the user to produce on request any other document when using that ticket or other authority, any reference to a ticket or other authority shall include such a document;
- (vii) any reference to a "passenger" shall include a person in a Compulsory Ticket Area other than for the purpose of himself travelling on a train;
- (viii) "Preceding Train" means a train:
  - by which a person travelled before changing to the train by which he is travelling, on which he is present or which he is leaving; and
  - which was operated by the Operator of the train to which that person changed in providing a railway passenger service in respect of which such Operator is authorised to charge penalty fares under Rule 10(3); and
- (ix) a ticket or other authority shall not be treated as authorising any journey if it is not valid for the class of travel used or being used on that journey.
- (d) unless otherwise defined pursuant to this Rule 2 or the context otherwise requires, words and expressions defined or construed in the Act or in the Regulations shall bear the same meanings in these Rules; and
- (e) headings are for convenience only and shall not be used for the purpose of interpretation of the Rules.

### **3. Persons who may charge Penalty Fares**

1. Subject to the Act, the Regulations and these Rules, penalty fares may be charged by or on behalf of the Operator of any train.

#### **4. Persons who may be charged Penalty Fares**

1. Subject to the Regulations and the other provisions of these Rules:
  - (a) any person travelling by, present on or leaving a train shall, if required to do so by an Authorised Collector in respect of that train, produce to that Authorised Collector a ticket or other authority authorising the journey made or being made by that person on that train and any Preceding Train;
  - (b) any person present in a Compulsory Ticket Area of any station proposing to board a train shall, if required to do so by an Authorised Collector in respect of that train, produce to that Authorised Collector a ticket or other authority authorising the journey proposed to be made by that person on that train; and
  - (c) any person present in or leaving a Compulsory Ticket Area, other than a person referred to in paragraphs (a) or (b) of this Rule 4, shall, if required to do so by an Authorised Collector in respect of any train scheduled to arrive at or depart from that Compulsory Ticket Area, produce to that Authorised Collector a ticket or other authority authorising that person to be present in that Compulsory Ticket Area.
2. Subject to the Regulations and the other provisions of these Rules, where any person fails to comply with paragraphs (a), (b) or (c) of Rule 4(1) the Authorised Collector referred to in that paragraph may impose upon that person a charge to a penalty fare.
3. The amount of any penalty fare to be charged shall be as specified in the Regulations.

#### **5. Circumstances in Which a Penalty Fare May Not be Imposed**

1. An Authorised Collector shall not impose on any person a charge to a penalty fare in respect of that person's failure to comply with paragraph (a) of Rule 4(1) if at the time when and at the station at which that person boarded the relevant train or, where that person transferred to the relevant train after travelling on a Preceding Train, at the time when and at the station at which that person boarded the Preceding Train:
  - (a) there were no facilities in operation for the sale of the appropriate ticket or other authority to make the journey being, or having been, made by that person;

- (b) the requirements of Rule 7 in respect of the display of notices were not satisfied;
  - (c) a notice was displayed indicating that such person was, or passengers generally were, permitted to travel on that train without having a ticket or other authority to travel;
  - (d) a person acting or purporting to act on behalf of the Operator of that train or station indicated that that person was, or passengers generally were, permitted to travel on that train or, as the case may be, any Preceding Train, without having a ticket or other authority to travel;
  - (e) the person was not in possession of a valid ticket or other authority to travel by reason only of such ticket or other authority to travel being subject to a published restriction, as such term is defined in condition 12 of the National Conditions of Carriage; or
  - (f) the Operator was not authorised to charge a penalty fare under the terms of the conditions of carriage which applied to the journey being made by that person.
2. An Authorised Collector shall not impose on any person a charge to a penalty fare in respect of that person's failure to comply with either paragraph (b) or paragraph (c) of Rule 4(1) if, at the time when such person entered the Compulsory Ticket Area at the relevant station:
- (a) there were no facilities in operation at that station for the sale of the appropriate ticket or other authority to make the journey proposed to be made by that person or to enter that Compulsory Ticket Area;
  - (b) the requirements of Rule 7 in respect of the display of notices were not satisfied in respect of that Compulsory Ticket Area;
  - (c) a notice was displayed at the relevant station indicating that that person was, or passengers generally were, permitted to travel on the relevant train or to enter that Compulsory Ticket Area without having a ticket or other authority to travel or so to enter; or
  - (d) a person acting or purporting to act on behalf of the Operator of the relevant train or that station indicated that that person was, or passengers generally were, permitted to travel on that train or enter that Compulsory Ticket Area without having a ticket or other authority to travel or so to enter.

## **6. Authorised Collectors**

1. No person other than an Authorised Collector shall be permitted to impose charges to penalty fares on behalf of any Operator.
2. A person shall be an Authorised Collector in respect of any train if that person has been expressly and individually authorised by or on behalf of the Operator of that train to impose charges to penalty fares in accordance with a scheme approved by the Regulator pursuant to Rule 11 and such authorisation has not been withdrawn or ceased to have effect.
3. If at any time the Regulator shall not be satisfied that an Authorised Collector is a fit and proper person to be so authorised the Regulator may by notice to the Operator by or on whose behalf such Authorised Collector was so authorised require such Authorised Collector to cease to be an Authorised Collector.

## **7. Display of Notices**

1. Any Operator wishing to charge penalty fares in respect of any train shall ensure that at every station at which any passenger may board that train (including at the entrance to any Compulsory Ticket Area at such station and in such other parts of such station as shall ensure that such notices shall be capable of being seen by passengers transferring to such train from any other train, whether or not such train was a Preceding Train) there shall be displayed notices complying with Rule 7(2) below.
2. Any notice displayed pursuant to Rule 7(1) shall:
  - (a) be prominent, easily readable and easily distinguishable from other notices and the general surroundings;
  - (b) state clearly the circumstances in which a penalty fare may be charged and the amount or maximum amount of any such penalty fare; and
  - (c) conform with any requirement contained in the scheme approved pursuant to Rule 11 below.
3. Every Station Operator shall provide upon request and at the expense of any Train Operator facilities for the display of notices at such station of such a nature and at such places as shall be necessary to enable such Train Operator to comply with this Rule 7.

**8. Requirements relating to charging and payment of Penalty Fares**

1. Any penalty fare charged in accordance with the Regulations and these Rules shall be payable within 21 days commencing with the day on which such penalty fare is charged and, if not paid immediately, shall be payable in any manner permitted by the notice referred to in Rule 8(4).
2. Each Authorised Collector must at all times while on duty carry and produce on request, as proof of his authority, a form of identification indicating that he is authorised to collect penalty fares on behalf of a specified Operator and must allow passengers promptly on request to make a note of his name and the relevant details of his authorisation.
3. Any person to be charged a penalty fare must be informed by an Authorised Collector, either orally or by written notice:
  - (a) that a penalty fare is being charged;
  - (b) the grounds on which the penalty fare is charged;
  - (c) the amount of the penalty fare; and
  - (d) that the person being charged a penalty fare has the right to appeal, within 21 days, against the decision of the Authorised Collector to charge the penalty fare.
4. If a person wishes to appeal against the decision to charge a penalty fare or otherwise does not pay the penalty fare in full immediately he shall be given a written notice by an Authorised Collector setting out:
  - (a) identification details of the Authorised Collector and the Train Operator on whose behalf he is acting;
  - (b) the amount of the penalty fare which has been demanded and the grounds upon which it is payable;
  - (c) the address or addresses to which payment may be made;
  - (d) a statement that payment must be made within 21 days of the person's receipt of that notice;
  - (e) the methods of payment available;

- (f) a statement that such person shall be entitled upon request to receive from the Operator, on whose behalf he is acting, a copy of these Rules, together with the address to which any such request should be made; and
  - (g) a statement that such person is entitled to appeal against the decision of the Authorised Collector to charge a penalty fare by providing a written statement to a specified address, within 21 days commencing on the day on which the penalty fare is charged, explaining the reason or reasons why the penalty fare should not be payable.
- 5. Any Operator shall forthwith upon request being made of it pursuant to Rule 8(4)(f) deliver a complete and up to date copy of these Rules to the person making such request.
  - 6. A person who pays all or part of a penalty fare shall forthwith be given by an Authorised Collector a receipt for the amount of such payment, which receipt shall bear the name and identification number of that Authorised Collector and shall set out each of the matters specified in paragraphs (a) to (d) of Rule 8(3).
  - 7. A receipt given under Rule 8(6) or a notice given under Rule 8(4) shall constitute an authority for the person to whom it is given to continue the train journey to which it relates to its next scheduled stop or to such other stop as shall be indicated on that receipt or notice or to leave the Compulsory Ticket Area to which it relates.

## **9. Appeals**

- 1. Every scheme approved pursuant to Rule 11 shall provide for the processing and determination of appeals made against the decision to charge a penalty fare in accordance with these Rules in accordance with a Code of Practice approved by the Regulator.

## **10. Retention of Penalty Fares**

- 1. Subject to the Regulations, any Operator by or on whose behalf penalty fares are collected may retain the amounts collected.

## 11. Approval of Penalty Fares Schemes

1. Subject to Rule 14(2), no Operator shall be entitled to charge penalty fares pursuant to the Regulations or these Rules except in accordance with a scheme approved by the Regulator pursuant to Rule 11(3).
2. A Train Operator who proposes to charge penalty fares must:
  - (a) not less than three months before the date on which such Operator proposes to begin charging penalty fares serve a notice on :
    - (i) the Regulator;
    - (ii) the Consultative Committee for any area in which the proposed scheme is to have effect;
    - (iii) the Passenger Transport Authority and the Passenger Transport Executive for that area, where the Operator proposes to charge penalty fares within the passenger transport area of a Passenger Transport Executive; and
    - (iv) the Franchising Director, where that Operator is a franchise operator.
  - (b) the notice shall be accompanied by a description of the scheme:
    - (i) specifying the railway passenger services and/or stations in respect of which such penalty fares will be charged;
    - (ii) specifying the ticket facilities available at each station at which may be boarded any train in respect of which such penalty fares may be charged;
    - (iii) specifying any arrangements made or proposed to be made between such Operator and any other Operator relating to the designation of Compulsory Ticket Areas and the collection of penalty fares at stations served by trains operated by more than one Operator;
    - (iv) specifying the arrangements for publicity for such charging and the display of warning notices in compliance with Rule 7;

- (v) specifying the systems and procedures to be adopted for checking the availability of ticket facilities and the display of notices at relevant stations for the purpose of Rule 5;
- (vi) specifying the procedures to be adopted for the selection and training of persons who are to be appointed as Authorised Collectors;
- (vii) enclosing a copy of written instructions and information to be given to each Authorised Collector of such Operator containing guidance for such Authorised Collectors and imposing rules in relation to their appearance, behaviour and exercise of discretion; and
- (viii) specifying the arrangements for the processing and determination of appeals.

3. The Regulator may, after consulting:

- (a) any Consultative Committee, Passenger Transport Authority and Passenger Transport Executive referred to in Rule 11(2)(a); and
- (b) the Franchising Director, where that Operator is a franchise operator,

approve or reject the scheme by notice in writing to the Train Operator and shall send a copy of such notice to each of the persons on whom the notice referred to in Rule 11(2) was served.

4. If the Regulator shall have approved the scheme the Operator shall for a period of not less than three weeks prior to the introduction of the scheme prominently display or cause to be displayed, at each station at which any train to which such scheme shall apply may be boarded, notices notifying the persons liable to be affected by the introduction of penalty fares and complying with the provisions of Rule 7(2).
5. Subject to Rule 14(2), no Operator shall charge penalty fares other than in relation to the railway passenger services and/or stations notified to the Regulator pursuant to Rule 11(2)(b)(i).
6. Any Operator by or on whose behalf penalty fares are charged shall, not less than six weeks in advance of any proposed change, give to the Regulator, any Consultative Committee, Passenger Transport Authority and Passenger Transport Executive referred to in Rule 11(2)(a) and, where that Operator is a franchise operator, the Franchising Director full details in writing of such proposed change to any of the

matters set out in Rule 11(2)(b). Where a change is proposed to any of the matters set out in sub paragraphs (i) to (vii) of Rule 11(2)(b) the Regulator may object to such change within 28 days of the receipt of notice of the change in which case it shall not have effect, but no change shall be made to the matters set out in sub paragraph (viii) of such Rule without the prior written approval of the Regulator.

## **12. Provision of Information**

1. Any Train Operator or Station Operator (the "Relevant Operator") shall promptly upon request by any Operator charging penalty fares pursuant to the Regulations and these Rules supply to the requesting Operator such information as shall be available to the Relevant Operator and shall be necessary to enable the requesting Operator to charge penalty fares fairly, efficiently and in compliance with the Regulations and these Rules.
2. The information which may be requested pursuant to Rule 12(1) shall include (without limitation) information about the display of warning notices at stations, ticket facilities available at stations and any other information necessary to verify facts in circumstances where a person charged a penalty fare is disputing his liability to pay.
3. Every Train Operator or Station Operator shall supply to the Regulator promptly upon request all information and explanations required by the Regulator in connection with the charging or proposal to charge penalty fares and/or in connection with his considering whether to exercise his powers under Rule 13, including, without limitation, in connection with the investigation of complaints and/or establishing compliance with any of the Regulations or these Rules. If the Regulator requests any Consultative Committee to assist him in carrying out any such investigation as to whether to exercise his powers under Rule 13 it may request the Train Operator or Station Operator to provide it with any information that such operator could have been required to supply to the Regulator pursuant to this Rule 12(3) and the Operator shall comply with such request.
4. Any Train Operator or Station Operator (whether or not itself charging penalty fares) shall promptly comply with such requirements as may be imposed on it by the Regulator relating to the display of warning notices, provision of ticket facilities or supply of information as the Regulator shall consider necessary in order to facilitate the charging of penalty fares by any other Operator. The Regulator may impose such requirements subject to a condition that the reasonable costs of the person complying

with such requirements be met by the Operator for whose benefit such requirements are imposed.

### **13. Prohibition on charging Penalty Fares**

1. If the Regulator has reasonable grounds for suspecting that any Operator shall have failed to comply with any of the provisions of the Regulations or these Rules he may issue a notice to such Operator prohibiting him from charging penalty fares, whereupon such Operator shall forthwith cease to charge penalty fares until such time as the notice shall be revoked by the Regulator.
2. The Regulator shall deliver a copy of any notice issued pursuant to Rule 13 to:
  - (a) the Secretary of State;
  - (b) the Consultative Committee for any area in which the Operator to whom such notice is given operates a service for the carriage of passengers by railway;
  - (c) the Passenger Transport Authority and the Passenger Transport Executive for that area, where the Operator operates a service for the carriage of passengers by railway within the passenger transport area of a Passenger Transport Executive; and
  - (d) the Franchising Director, if the Operator to whom such notice is given is a franchise operator.

### **14. Commencement and Transitional Provisions**

1. 1. These Rules come into effect on 28 April 1997 and, subject to Rule 14(2), the rules made on 1 April 1994 (the "former rules") shall cease to have effect from that date.
2. Any Train Operator charging penalty fares pursuant to the former rules immediately before the coming into effect of these Rules may continue to charge penalty fares to the same extent under these Rules as it was able to do pursuant to the former rules without first complying with Rule 11(2) provided that;
  - (a) within three months of the date of coming into effect of these Rules the Operator shall have delivered to the Regulator the documents referred to in Rule 11(2)(b); and

- (b) the Regulator shall no later than six months after the date of the delivery of the documents referred to in paragraph (a) above have approved the Train Operator's arrangements pursuant to Rule 11(3).
- 3. The Regulator may, as a condition of any approval under Rule 14(2)(b), require the Operator to make such arrangements for publicising any changes to such Operator's scheme as he considers appropriate.

John Swift QC

Rail Regulator

28 April 1997