

## **NOTE ON DERIVATION OF STATUTORY DUTIES OF TRANSPORT FOCUS**

*Transport Focus has been adopted as an operating name by the Passengers Council, but this title has no formal status in law. Accordingly, its legal name is used in this note.*

*This note deals only with the primary representational and investigative role of the Council and omits all reference to its more specific duties vis-à-vis closures.*

*For the sake of clarity, what are now the Council, the Office of Rail Regulation (ORR) and the Secretary of State (SoS) are so described throughout, and references to their predecessor bodies in statutes predating their creation have been amended accordingly.*

*References to regional committees which (apart from the London Transport Users Committee, operating as London TravelWatch) no longer exist have been omitted, as have references to the ORR/Franchising Director/ Strategic Rail Authority (SRA) where these have been subsequently repealed.*

*Extensions to the Council's jurisdiction contained in legislation authorising construction of the Channel Tunnel are disregarded.*

*Subsequent amendments (including those referred to in the chronological summary below) are incorporated in the text of the measures to which they were applied, without specific identification.*

*Passages not relevant to the Council's duties (e.g. relating to its composition and administration) are omitted, in consequence of which the numbering of sections and sub-sections may be discontinuous.*

## **CHRONOLOGICAL SUMMARY**

### **Transport Act 1962**

This Act abolished the British Transport Commission and transferred its functions to a number of Boards, of which two now survive : the British Railways Board (BRB) (in name only) and the British Waterways Board (BWB).

The Act also reconstituted the Council, which had originally been established under the Transport Act 1947, and redefined its role. Subject to certain restrictions relating to fares/charges and closures, it places on it the duty to consider and (at its discretion) to make recommendations to the appropriate bodies regarding matters affecting the services and facilities provided by any of the Boards which : (a) have been the subject of representations made by or on behalf of any user, or (b) have been referred to it by the SoS or any of the Boards, or (c) appear to it to require consideration. [“the 1962 duties”]

### **Transport Act 1968**

This Act deleted BWB from the list of Boards within the remit of the Council.

### **Transport Act 1985**

This Act empowered BRB to procure bus substitution services to replace withdrawn railway services, and brought these within the ambit of the Council.

### **Railways Act 1993**

This Act authorised the privatisation of the railway network and created the system of franchising. BRB retained the function of “provider of last resort” of unfranchised services.

The Act re-enacts in similar terms to those used in the 1962 and 1985 Acts the duties of the Council in relation to rail passenger services where these are provided by BRB or under a franchise agreement, and to station services provided by a licensed station operator. It removes the previous exclusion of fares/charges from the Council’s remit, but by limiting the remit to rail passenger (and substitute bus) services it excludes freight and BRB’s other ancillary businesses. It requires the Council to refer prima facie breaches of licensing conditions to the ORR. It also requires the Council, in making any recommendation, to take value for money into account. [“the 1993 duties”]

The 1993 Act disapplies the 1962 duties in relation to the services provided by BRB or under a franchise agreement. But it gives the SoS power to direct that they should apply in relation to any ferry service provided either by BRB or any other person, as if it is provided by any of the Boards under the 1962 Act. [“the revised 1962 duties”] (No such direction is currently in force.)

### **Transport Act 2000**

This Act removed from BRB the role of the rail service provider of last resort (the Board is now dormant, and has ceased to be a provider of any services to which either the Council’s revised 1962 or its 1993 duties apply).

The Act extends the Council’s 1993 duties to all railway passenger services (irrespective of operator or franchising status), subject to a power granted to the SoS to make Orders excluding specific services or classes of service. It requires the Council to refer prima facie breaches of franchise agreements to the SoS.

The Act adds to those in the 1993 Act new duties to keep under review matters affecting the interests of the public in relation to railway services, to make representations to and to consult appropriate persons about them, and to co-operate with other bodies representing the interests of public transport users [“the 2000 duties”].

It clarifies the application of the duties under each Act by specifying that in relation to any services or facilities to which the revised 1962 duties would otherwise apply, the 1993 duties apply if they are provided under a franchise agreement.

### **The Railways (Passengers' Council ...) (Exemptions) Order 2003**

This Order was made by the SoS under the powers granted by the 2000 Act. It excludes certain classes of rail service (essentially those provided by charter and heritage operators) from the Council’s 1993 duties, but not from its 2000 duties.

### **Railways Act 2005**

This Act reconstitutes the Council with changes to its composition but leaves its functions unaltered, except by amending the 1993 Act to empower the Council to enter into an agreement with any other public body under which that body would discharge its 2000 duties in a specified area. (No such delegation of its duties has yet occurred.)

### **The Railway (Licensing of Railway Undertakings) Regulations 2005**

These Regulations extend the duty placed on the Council by the 1993 Act to refer prima facie breaches of the conditions of licences issued by ORR to include similar breaches of licences issued by other European countries to “railway undertakings” providing passenger services in Great Britain.

### **The Passengers’ Council (Non-Railway Functions) Order 2010**

This order deletes the word “Rail” previously used in the legal title of the Council, and amends all other statutory references accordingly. It extends the general duties of the Council vis-à-vis railways additionally to encompass bus, coach and tram services and facilities in England (other than those provided by or for Transport for London). In relation to representations received about such services and facilities, it empowers the Council to refer them to other bodies for investigation, where it believes this would be appropriate.

### **The Rail Passengers’ Rights and Obligations Regulations 2010**

These Regulations designate the Council as a body to which complaints may be made regarding alleged infringements of an EU Regulation setting out certain rights and obligations of rail passengers.

### **The Infrastructure Act 2015**

The Infrastructure Act 2015 allows the Secretary of State for Transport to appoint a strategic highways company, Highways England, to manage the strategic roads network. The Council, now calling itself Transport Focus, is also set a legal duty, set out in section 8 of the Act, to protect and promote the interest of users of the Strategic Road Network.

The Act also corrected a previously anomaly whereby the Council was excluded from the provisions of the Freedom of Information Act 2000.

## TEXT OF STATUTORY PROVISIONS CURRENTLY IN FORCE

### RAILWAYS ACT 1993

#### 76 General duties of the Passengers Council

- (1) It shall be the duty of the Passengers Council to investigate any matter which relates—
- (a) to the provision of railway passenger services, or
  - (b) to the provision of station services by any person in a case where the operator of the station in question is authorised by a licence to be the operator of that station,
- if the condition specified in subsection (2) below is satisfied in relation to the matter in question.
- (2) The condition mentioned in subsection (1) above is satisfied if—
- (a) the matter is the subject of a representation made to the Council by a user or potential user of railway passenger services and does not appear to the Council to be frivolous or vexatious;
  - (b) the matter is referred to the Council by the Secretary of State; or
  - (c) the matter appears to the Council to be one which it ought to investigate.
- (2A) If any matter falling within subsection (2)(a) appears to the Passengers' Council to relate only to—
- (a) the provision of railway passenger services wholly within the London railway area (within the meaning of section 252A of the Greater London Authority Act 1999), or
  - (b) the provision of station services within that area,
- the Council must refer the matter to the London Transport Users' Committee.
- (4) If, on investigating any matter, the Passengers' Council considers it appropriate to do so, the Council shall make representations to the person providing the secured service (within the meaning of Part 4 of the Railways Act 2000) which is in question and—
- (a) in the case of a service provided under a franchise agreement, to the franchisee, or
  - (b) in the case of a service provided on behalf of the Secretary of State, to the Secretary of State,
- about the matter, or any matter to which it relates or which appears to the Council to be relevant to the subject of the matter investigated.
- (5) Where the Passengers' Council —

- (a) having made representations under subsection (4) above, is of the opinion that it is unable to achieve a satisfactory resolution of the matter by that means, or
  - (b) on investigating any matter, has reason to believe that a franchisee is contravening, or is likely to contravene, any term of the franchise agreement or that the holder of a passenger licence or a station licence is contravening, or is likely to contravene, any condition of the licence,
- the Council shall, unless representations about the matter have been made to the Secretary of State by the Passengers' Council, refer it to the Secretary of State with a view to the Secretary of State exercising such of his powers as he considers appropriate in the circumstances of the case.
- (5A) But if the Secretary of State considers that it would be more appropriate for a matter referred to him by the Passengers' Council to be considered by the Office of Rail Regulation, the Secretary of State shall refer the matter to it, with a view to its exercising such of its powers as it considers appropriate in the circumstances of the case.
- (6) Where the Passengers' Council investigates any matter—
- (a) it may prepare and send to the Secretary of State a report of its findings; and
  - (b) it may publish any such report, unless the matter in question is one which was referred to the Council by the Secretary of State as mentioned in subsection (2)(b) above.
- (7) Where the Council has investigated any matter under this section, it shall neither—
- (a) include in any report or representations a proposal for any steps to be taken by any person in relation to that matter, nor
  - (b) refer the matter to the Secretary of State under subsection (5)(a) above by reason only of the failure of any person to take any steps in relation to that matter,
- unless, balancing the cost of taking those steps against the benefits which the Council considers will be enjoyed by any person in consequence of the taking of those steps, the Council is of the opinion, on the basis of the information available to it, that the expenditure involved represents good value for money.
- (7A) It shall also be the duty of the Passengers' Council, so far as it appears expedient from time to time to do so—
- (a) to keep under review matters affecting the interests of the public in relation to railway passenger services and station services;
  - (b) to make representations to, and consult, such persons as they think appropriate about those matters; and
  - (c) to co-operate with other bodies representing the interests of users of public passenger transport services.

- (7B) The Secretary of State may, after consultation with the Passengers' Council, make an order excluding services from the duties imposed by this section; and an order under this subsection—
- (a) may exclude services of a particular class or description, particular services or services provided by a particular person;
  - (b) may provide that services are excluded subject to compliance with specified conditions; and
  - (c) may not revoke an exclusion except for breach of condition or in accordance with the order which made it.
- (7C) The Secretary of State may, after consultation with the Passengers' Council, make an order providing that the duties imposed by this section apply to services of a particular class or description, particular services or services provided by a particular person—
- (a) only to such extent as is specified by the order; or
  - (b) with such modifications as are so specified.
- (9) In this section, any reference to railway passenger services includes a reference to bus substitution services required to be provided in place of any such services.

**76A Delegation of duties under section 76(7A)**

- (1) The Passengers' Council and any other public body may enter into an agreement for that other body to be responsible, in accordance with the agreement, for —
- (a) determining what is expedient for the purposes of subsection (7A) of section 76 above in relation to an area specified in the agreement; and
  - (b) otherwise performing that Council's duties under that subsection in relation to that area.
- (2) So long as an agreement under this section is in force—
- (a) the duties of the Passengers' Council under subsection (7A) of section 76 above shall be deemed, in relation to the area specified in the agreement, to fall on the other party to it, instead of on that Council; but
  - (b) that Council is not to be prevented from doing anything mentioned in that subsection in relation to that area.
- (3) An agreement under this section—
- (a) may be entered into on such terms and conditions as the parties to it may agree; and
  - (b) may contain provision for determining for the purposes of this section in what circumstances things done under or for the purposes of section 76(7A) are to be treated as done in relation to the area specified in the agreement.

- (4) The consent of the Secretary of State is required before the Passengers' Council and another public body may enter into an agreement under this section.
- (5) In this section “public body” means any authority or other body on which functions are conferred by or under an enactment.
- (6) In subsection (5) “enactment” includes an enactment comprised in an Act of the Scottish Parliament.”

**78 Functions under section 56 of the Transport Act 1962**

- (1) In consequence of section 76 above, subsections (4) to (6) of section 56 of the Transport Act 1962 (which make provision with respect to the functions of the former Central Committee with respect to services and facilities provided by certain Boards and, as applied or amended, by certain other persons) shall not have effect in relation to matters affecting the services or facilities which are for the time being provided by the Board or a subsidiary of the Board or under a franchise agreement.

**THE RAILWAY (LICENSING OF RAILWAY UNDERTAKINGS) REGULATIONS 2005**

**2 Interpretation**

- (1) In these Regulations, except where the context otherwise requires—
  - "the 1993 Act" means the Railways Act 1993;
  - "the 1995 Directive" means Council Directive 95/18/EC dated 19th June 1995 on the licensing of railway undertakings, as amended by Directive 2001/13/EC dated 26th February 2001 and Directive 2004/49/EC dated 29th April 2004, both of the European Parliament and of the Council;
  - "EEA State" means a member State, Norway, Iceland or Liechtenstein;
  - "European licence" means a licence granted to a railway undertaking pursuant to these Regulations (valid throughout the territory of any EEA State) by which the capacity of the railway undertaking as such is recognised and which authorises the undertaking to provide in and between EEA States such train services as may be specified in the licence;
  - "ORR" means the Office of Rail Regulation, being the body established under section 15 of the Railways and Transport Safety Act 2003;
  - "SNRP" means a statement of national regulatory provisions, issued pursuant to regulation 10.

## 17 General duties of the Passengers' Council

- (1) Subsection (5) of section 76 of the 1993 Act (general duties of the Passengers' Council) has effect in relation to holders of European licences and to SNRPs as if—
- (a) the reference to the holder of a passenger licence included a reference to the holder of a European licence which authorises the carriage of passengers by railway;
  - (b) the reference to any condition of the licence included a reference to any condition of a SNRP held by the holder of the European licence;
  - (c) the reference to the Secretary of State, in the second and third places where it occurs, included a reference to the ORR; and
  - (d) the reference to the Secretary of State exercising such of his powers as he considers appropriate included a reference to the ORR exercising such of its powers as it considers appropriate.
- (2) In paragraph (1), the expression "European licence" includes a licence granted pursuant to any action taken by an EEA State for the purpose of implementing the 1995 Directive.

## TRANSPORT ACT 1962

### 56 The Transport Consultative Committees

- (4) Subject to the following provisions of this section, it shall be the duty of the Passengers' Council ... to consider and, where it appears to them to be desirable, make recommendations with respect to any matter affecting the services and facilities provided by any of the Boards—
- (a) which has been the subject of representations (other than representations appearing to the committee to be frivolous) made to the Passengers' Council ... by or on behalf of users of those services or facilities, or
  - (b) which has been referred to the Passengers' Council ... by the Minister or by a Board, or
  - (c) which appears to the Passengers' Council ... to be a matter to which consideration ought to be given.
- (6ZA) If the Secretary of State so directs subsections (4) to (6) of this section shall have effect in relation to the Passengers' Council ... as if the reference in subsection (4) of this section to services and facilities provided by any of the Boards included a reference to any such ferry service as may be specified in the direction, whether provided by a Board or by some other person; and, in the application of subsections (4) to (6) of this section in relation to any such ferry service, any reference in those subsections to a Board shall be taken to include a reference to the person providing the ferry service.

## **TRANSPORT ACT 1968**

### **55 Amendments as to Transport Consultative Committees**

- (1) The services and facilities in relation to which, under section 56 of the Act of 1962, the duty imposed, subject to the subsequent provisions of that section, by subsection (4) thereof on the Passengers' Council ... falls to be exercised—
- (a) shall not include any services or facilities provided by the Waterways Board and accordingly—
  - (ii) the reference in paragraph (b) of that subsection to a Board shall be construed as excluding a reference to the Waterways Board.

## **TRANSPORT ACT 2000**

### **Schedule 28**

10. Where provision is made for subsections (4) to (6) of section 56 of the Transport Act 1962 (functions of Passengers' Council ...) to apply in relation to any services or any facilities connected with any services-
- (a) section 76 of the Railways Act 1993 shall not apply in relation to them unless the services are being provided under a franchise agreement, but
  - (b) that subsection shall not apply to them if the services are being so provided.

## **THE RAILWAYS (PASSENGERS' COUNCIL ...) (EXEMPTIONS) ORDER 2003**

### **2 Interpretation**

In this Order –

"the Act" means the Railways Act 1993;

"International railway passenger services" has the meaning given by section 41(6) of the Channel Tunnel Act 1987; and

"the Metro" has the meaning given by section 2(1) of the Tyne and Wear Passenger Transport Act 1989.

### **3 Exemption in favour of the Passengers' Council**

Save in relation to the duties imposed by section 76(7A), exemption is granted to the Passengers' Council from the duties imposed by section 76 of the Act in relation to any railway passenger service to which this article applies.

### **5 Railway passenger services to which article 3 applies**

- (1) Subject to paragraph (2), article 3 applies to the following railway passenger services –

- (a) railway passenger services which are provided by a passenger service operator which is not required under the terms of its passenger licence to provide through ticketing facilities; and
- (b) railway passenger services in respect of which the passenger service operator is exempted under section 7 of the Act from the requirement under section 6 of the Act to be authorised by licence to operate the railway assets used in the provision of those services.

(2) Article 3 does not apply to railway passenger services specified in the Schedule to this Order.

## **Schedule**

### **Excluded services**

Railway passenger services provided by or on behalf of Docklands Light Railway Limited or London Underground Limited;

Railway passenger services provided exclusively on the Metro;

International railway passenger services.

## **THE PASSENGERS' COUNCIL (NON-RAILWAY FUNCTIONS) ORDER 2010**

### **New name for Rail Passengers' Council**

- 2 (1) The body corporate established under section 19(1) of the Railways Act 2005 is to be known as the Passengers' Council.
- (3) References in enactments, instruments or documents to the Central Rail Users' Consultative Council or to the Rail Passengers' Council have effect after the coming into force of this Order as references to the Passengers' Council.

### **Conferral of non-railway functions on the Passengers' Council**

- 3 (1) After section 112 of the Transport Act 1985(2) insert—

**“PART 5A PASSENGERS' COUNCIL: ROAD PASSENGER TRANSPORT FUNCTIONS IN ENGLAND**

**112A Introductory**

- (1) “Road passenger transport service” means—
  - (a) a local service(3), so far as operating in England;
  - (b) a domestic coach service, so far as operating in England; or
  - (c) a tramway passenger service, so far as operating in England.
- (2) But a service is not a “road passenger transport service” if—
  - (a) it is an excursion or tour(4); or
  - (b) it is provided in a public service vehicle(5) used under a permit granted under section 19.
- (3) “Road passenger transport facility” means a facility in England for road passenger transport services.

**112B Duty to keep road passenger transport services and facilities under review**

- (1) The Passengers’ Council must, so far as it appears expedient from time to time to do so—
  - (a) keep under review matters affecting the interests of the public in relation to road passenger transport services and facilities; and
  - (b) make representations to, and consult, such persons as it considers appropriate about those matters.
- (2) The Council and any other public body may enter into an agreement for that other body to be responsible, in accordance with the agreement, for—
  - (a) determining what is expedient for the purposes of subsection (1) in relation to an area specified in the agreement; and
  - (b) otherwise performing the Council’s functions under subsection (1) in relation to that area.
- (3) So long as an agreement under subsection (2) is in force—
  - (a) the duties of the Council under subsection (1) in relation to the area specified in the agreement fall on the other party to the agreement instead of on the Council; but
  - (b) the Council is not prevented from doing anything mentioned in subsection (1) in relation to that area.
- (4) An agreement under subsection (2)—
  - (a) may be entered into on such terms and conditions as the parties to it may agree; and

- (b) may contain provision for determining, for the purposes of this section, in what circumstances things done under or for the purposes of subsection (1) are to be treated as done in relation to the area specified in the agreement.
- (5) The written consent of the Secretary of State is required before the Council and another public body may enter into an agreement under this section.
- (6) In this section “public body” means any authority or other body on which functions are conferred by or under an enactment.

**112C Duty to investigate road passenger transport services and facilities**

- (1) The Passengers’ Council must investigate any matter relating to the provision of road passenger transport services or facilities if—
  - (a) the matter is the subject of a representation made to the Council by a user or potential user of road passenger transport services or facilities;
  - (b) the matter is the subject of a representation made to the Council by an organisation representative of users or potential users of road passenger transport services or facilities;
  - (c) the matter is referred to the Council by the Secretary of State for investigation; or
  - (d) it appears to the Council that the matter is one which the Council ought to investigate.
- (2) The Council is not required to investigate a matter in a case falling within subsection (1)(a) or (b) if the matter appears to the Council to be frivolous or vexatious.
- (3) The Council is not required to investigate a matter in a case falling within subsection (1)(a) or (b) if, or to the extent that, the Council refers the matter to another body under section 112D.
- (4) The Council must not investigate by virtue of subsection (1)(d) any matter which relates solely to the provision of London road passenger transport services or facilities.

- (5) Subsection (4) does not prevent the Council from so investigating any such matter as part of an investigation of a matter which relates wholly or mainly to—
- (a) the provision of road passenger transport services or facilities other than London road passenger services or facilities; or
  - (b) the provision of road passenger transport services or facilities in any part of England outside London.

**112D Power to refer matters elsewhere instead of investigating**

- (1) This section applies in relation to a matter which is the subject of a representation made to the Passengers' Council under section 112C(1)(a) or (b).
- (2) If the Council thinks that it would be more appropriate for the matter to be considered—
- (a) by an operator of road passenger transport services;
  - (b) by a provider of road passenger transport facilities; or
  - (c) by any body which does not fall within paragraph (a) or (b);
- the Council may refer the matter to that person or body.
- (3) The Council must refer the matter to the London Transport Users' Committee(6) if, or in so far as, it appears to the Council to relate to the provision of London road passenger transport services or facilities.
- (4) Subsection (3) does not require the Council to refer a matter to the Committee if, or in so far as, it appears to the Council to relate to the provision of a long distance coach service.
- (5) Subsection (4) does not apply in the case of a matter if, or in so far as, it appears to the Council to relate to a London local passenger.
- (6) Subsection (4) does not prevent the Council referring a matter under subsection (3) if, or in so far as, it considers it appropriate to do so.
- (7) In this section—
- “London local passenger” means a passenger making a journey which begins and ends at stopping places in London;
- “long distance coach service” means a bus service—
- (a) which has one or more stopping places(7) outside London; and
  - (b) which would be a domestic coach service, if no account were taken of any London local passengers.

**112E Investigations: power to obtain information**

- (1) This section applies if the Passengers' Council is carrying out an investigation under section 112C in relation to road passenger transport services or facilities.
- (2) If the Council requests an operator of services, or a provider of facilities, to provide any information which the Council considers necessary for the purpose of carrying out the investigation, subsection (3) applies.
- (3) A person who receives such a request must provide the information unless—
  - (a) the person does not have, and cannot reasonably obtain, it; or
  - (b) the provision of the information would impose an unreasonable burden on the person.
- (4) A person who relies on paragraph (a) or (b) of subsection (3) must notify the Council in writing of that fact, stating the reason why the paragraph in question applies.
  - (4) If the Council—
    - (a) has requested information from an operator of local services or domestic coach services, and
    - (b) considers that it has not received a satisfactory response to that request,
 the Council may refer the matter to a traffic commissioner.
  - (5) If the Council—
    - (a) has requested information from an operator of tramway passenger services, and
    - (b) considers that it has not received a satisfactory response to that request,
 the Council may refer the matter to the promoter.
- (7) If a matter is referred by virtue of subsection (5) or (6), the traffic commissioner or, as the case may be, the promoter may require the recipient of the request mentioned in subsection (2) to provide such of the information as the traffic commissioner or promoter considers appropriate.

### **112G Investigations: representations**

- (1) Having investigated a matter under section 112C the Passengers' Council may, if it considers it appropriate to do so, make representations to—
  - (a) an operator of road passenger transport services;
  - (b) a provider of road passenger transport facilities;
  - (c) a local traffic authority in England;
  - (d) the Highways Agency of the Secretary of State for Transport;
  - (e) a local transport authority in England.
  
- (2) If the Council makes representations to a person under this section—
  - (a) the person must have regard to those representations; and
  - (b) the person must, within a reasonable time, send the Council a written statement describing any actions that the person has taken or intends to take in response to the representations.

### **112H Referrals following investigation**

- (1) This section applies if the Passengers' Council—
  - (a) has made representations under section 112G; and
  - (b) considers that it is unable to achieve a satisfactory outcome by that means.
  
- (2) If the representations were made to any operator of local services or domestic coach services, the Council may refer the matter to a traffic commissioner.
  
- (3) If the representations were made to any operator of tramway passenger services, the Council may refer the matter to the promoter.
  
- (4) If the representations were made to a local traffic authority and the Council considers that it may be appropriate for a traffic commissioner to exercise powers under section 27A (additional powers in relation to local traffic authorities where service not operated as registered), the Council may refer the matter to a traffic commissioner.
  
- (6) If the representations were made to a local traffic authority and the Council considers that it may be appropriate for the Secretary of State to exercise powers under Part 2 of the Traffic Management Act 2004 (enforcement of network management duties), the Council may refer the matter to the Secretary of State.

**112I Referrals in cases where investigation identifies other failings**

- (1) This section applies if, on investigating a matter under section 112C, the Passengers' Council has reason to believe that—
- (a) an operator of local services has failed to operate a local service registered under section 6 or has operated a local service in contravention of that section; or
  - (b) the holder of a PSV operator's licence(11) is contravening, or is likely to contravene, any conditions or requirements of that licence.
- (2) The Council may refer a matter described in subsection (1) to a traffic commissioner.

**112J Traffic commissioner's duty following referral**

- (1) This section applies if the Passengers' Council refers a matter to a traffic commissioner under section 112E, 112H or 112I.
- (3) The traffic commissioner dealing with the matter must consider whether, in connection with the matter, it would be appropriate to exercise any of the powers of a traffic commissioner in respect of—
- (a) an operator of local services;
  - (b) a holder of a PSV operator's licence; or
  - (c) a local traffic authority.

**112K Investigation reports**

- (1) This section applies where the Passengers' Council has investigated a matter under section 112C.
- (2) The Council may prepare a report of its findings (an "investigation report").
- (3) The Council may send a copy of an investigation report to the Secretary of State and to such other persons as the Council thinks fit.
- (4) The Council may publish an investigation report.

(7) In the case of an investigation report prepared following an investigation which is carried out as the result of a referral by the Secretary of State under section 112C(1)(c), the Council must obtain the Secretary of State's consent before—

- (a) sending the report to any person other than the Secretary of State; or
- (b) publishing the report.

## **112L Interpretation of Part 5A**

(1) In this Part—

“domestic coach service” means a bus service which—

- (a) carries passengers at separate fares; and
- (b) is not a local service;

“local traffic authority” has the meaning given by section 121A of the Road Traffic Regulation Act 1984;

“local transport authority” has the meaning given by section 108(4) of the Transport Act 2000;

“London road passenger transport services or facilities” means road passenger transport services or facilities—

- (a) provided by Transport for London or any of its subsidiaries;
- (b) provided in pursuance of an agreement entered into by Transport for London or in pursuance of a transport subsidiary's agreement; or
- (c) otherwise authorised by Transport for London to be provided;

“promoter”, in the case of any tramway passenger services, means the person authorised to secure the provision of those services with whom the operator of the services has entered into an agreement granting the operator the right to operate them;

“road passenger transport facility” has the meaning given by section 112A(3);

“road passenger transport service” has the meaning given by section 112A(1) and (2);

“subsidiary”, in relation to Transport for London, has the same meaning as in the Greater London Authority Act 1999 (see section 424(1) of that Act);

“tramway” has the meaning given by section 67(1) of the Transport and Works Act 1992;

“tramway passenger service” means any service for the carriage of passengers by tramway;

“transport subsidiary’s agreement” has the same meaning as in the Greater London Authority Act 1999 (see section 169 of that Act).”

## **THE RAIL PASSENGERS’ RIGHTS AND OBLIGATIONS REGULATIONS 2010**

### **Interpretation**

**3** (1) In these Regulations—

“the European Regulation” means Regulation (EC) No. 1371/2007 of the European Parliament and of the Council of 23rd October 2007 on rail passengers’ rights and obligations;

“the 1993 Act” means the Railways Act 1993;

“the ORR” means the Office of Rail Regulation.

### **Bodies handling complaints**

**18** (1) The Passengers’ Council is designated as a body to which complaints may be made under Article 30(2) of the European Regulation, in relation to matters that fall within its functions under any enactment (other than this regulation), disregarding any order made under section 76(7B) or (7C) of the 1993 Act (power to exclude specified services from general duties of the Passengers’ Council).

(2) In matters for which the Passengers’ Council is a body to which complaints may be made under Article 30(2) of the European Regulation, section 76 of the 1993 Act (general duties of the Passengers’ Council) has effect as if—

- (a) in subsection (5)—
  - (i) the references to the Secretary of State included a reference to the ORR, and
  - (ii) in relation to a matter being referred to the ORR under that subsection as modified by paragraph (i), the words “unless representations about the matter have been made to the Secretary of State by the Passengers’ Council” were omitted,
- (b) subsection (5A) were omitted, and
- (c) in subsection (7), the reference to the Secretary of State included a reference to the ORR.

*[Note : These regulations give effect to EU regulation 1371/2007 on rail passengers’ rights and obligations, the relevant sections of article 30 of which are set out below.]*

**Article 30 Enforcement**

1 *Each Member State shall designate a body or bodies responsible for the enforcement of this Regulation. Each body shall take the measures necessary to ensure that the rights of passengers are respected.*  
*Each body shall be independent in its organisation, funding decisions, legal structure and decision-making of any infrastructure manager, charging body, allocation body or railway undertaking.*

*Member States shall inform the Commission of the body or bodies designated in accordance with this paragraph and of its or their respective responsibilities.*

2 *Each passenger may complain to the appropriate body designated under paragraph 1, or to any other appropriate body designated by a Member State, about an alleged infringement of this Regulation.*

**The Infrastructure Act 2015**

(1)The Passengers’ Council must carry out activities to protect and promote the interests of users of highways for which a strategic highways company is the highway authority.

(2)Those activities may include investigating, publishing reports or giving advice to the Secretary of State on—

- (a)how a strategic highways company’s exercise of its functions or achievement of its objectives under a Road Investment Strategy affects users of highways for which it is the highway authority, and

- (b)any other matters—

(i)relating to highways for which a strategic highways company is the highway authority, and

(ii)which the Council considers to be of interest to users of such highways.

(3)The Secretary of State may by regulations provide that those activities may not relate to a matter—

(a)to the extent specified;

(b)subject to compliance with specified conditions.

(4)The Secretary of State must consult the Council before making regulations under subsection (3).

(5)The Secretary of State must, in exercising functions under this Part, have regard to any advice given to him or her by the Council under this section.

(6)The Council may by agreement with a local highway authority carry out activities to protect and promote the interests of users of highways for which the authority is the highway authority.

(7)Those activities may include investigating, publishing reports or giving advice to the local highway authority on any matters—

(a)relating to highways for which the authority is the highway authority, and

(b)which the authority and the Council consider to be of interest to users of such highways.

(8)In Part 6 of Schedule 1 to the Freedom of Information Act 2000 (other public bodies and offices: general), at the appropriate place insert—

“The Passengers’ Council.”