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# *The Travel Concessions (Eligibility) Bill [HL]*

**Bill 38 of 2001-02**

The Bill equalises the age at which men and women become entitled to travel concessions.

Current legislation, the *Transport Act 2000*, links the entitlement to state pension age, at present 60 for women and 65 for men. In 2000 it appeared likely that the government would lose a discrimination case before the European Court of Human Rights and it therefore decided to equalise the age of men's eligibility with that of women.

Following changes to the pensions legislation in 1995, eligibility for travel concessions would have been equalised at 65 in 2020, but this Bill entitles men to concessions from the age of 60. The age for entitlement will then increase for both sexes between 2010 and 2020 with the phased increase in women's state pension age. It is estimated that extending eligibility for men aged 60 to 64 will cost approximately £50 million a year.

The Bill was introduced first in the House of Lords where it had its second reading on 9 July 2001. It is due to have its second reading in the House of Commons on Monday 5 November. The Bill applies only to England and Wales.

Fiona Poole

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## Summary of main points

The *Transport Act 2000* amended the legislation covering concessionary fares in England and Wales from 1 June 2001 outside London and 1 April 2001 in London. Local authorities must now provide elderly people (defined in section 146 as "a person who has attained pensionable age") and disabled persons with at least a half-fare concession on local bus travel. Local authorities also have *discretion* to offer further concessions on bus and other public passenger transport services if they wish under the *Transport Act 1985* and the *Greater London Authority Act 1999*.

Concessionary fare schemes for local public transport are the responsibility of local government and are funded and administered by them. As a result the nature and extent of such concessions have varied from region to region depending on the local authority. The new legislation provides a minimum concession but does not preclude local authorities from being more generous.

The legislation links the entitlement to state pension age, at present 60 for women and 65 for men. In 2000 it appeared likely that the government would lose a discrimination case before the European Court of Human Rights and it therefore decided to equalise the age of men's eligibility with that of women. On 17 February 2001, the secretary of state announced his intention to equalise eligibility for travel concessions for men in England and Wales at the pension age for women. Legislation was announced in the Queen's Speech and the *Travel Concessions (Eligibility) Bill [HL]* was introduced in the House of Lords. The second reading debate there was on 9 July 2001.

Following changes to the pensions legislation in 1995, eligibility for travel concessions would have been equalised at 65 in 2020, but this Bill entitles men to concessions from the age of 60. The age for entitlement will then increase for both sexes between 2010 and 2020 with the phased increase in women's state pension age.

The government allocated £54 million annually to cover the cost of the mandatory half-fare concessionary travel scheme in England. A further 1 million men between 60 and 64 will be covered by this proposal, at an estimated cost of about £50 million for England.

The legislation covers only England and Wales and the National Assembly will have its own commencement powers.



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## I Background

Provision for travel concessions is contained in the *Transport Act 1985*, the *Greater London Authority Act 1999* and the *Transport Act 2000*. Under the *Transport Act 2000*, local authorities in England and Wales are required to arrange for elderly and disabled people living in their area to receive a half-fare concession on local bus services subject to the person obtaining a bus permit, which must be given free of charge. Those local authorities also have discretion, under the *Transport Act 1985*, to offer further concessions on bus and other public passenger transport services if they wish.

Current legislation, however, links the entitlement of elderly people to travel concessions to pensionable age as defined in the *Pensions Act 1995*, that is 60 for women but 65 for men. Schedule 4 to the *Pensions Act 1995* provides for pensionable age to be equalised at 65 for both men and women by 2020, with transitional arrangements from 2010. Various efforts have been made by pressure groups, in particular Parity (formerly the Campaign for Equal State Pension Ages) to equalise the age at which men and women become entitled to travel concessions, most recently in the European Court of Human Rights. As a result the government decided to introduce legislation to equalise the age of entitlement.

### A. Existing legislation

#### 1. The *Transport Act 1985*

The *Transport Act 1985* allows the passenger transport authorities and local authorities in England, Scotland and Wales (outside London) to provide at their discretion travel for elderly persons as well as for other specifically defined categories of persons set out in section 93. These include:

- pensioners
- children under 16
- those between 16 and 18 in full-time education
- the blind
- the disabled

Local authorities were free to decide whether or not to operate a scheme in their area. They could, if they chose, act jointly with other local authorities to establish one throughout their area. Authorities retained the right to choose virtually any scheme and any level of concession but had to observe a number of detailed rules. They had to publish details of the scheme and also their arrangements for reimbursing participating operators. Within a statutory framework setting out the categories of people eligible, local authorities took their own decisions on what schemes to provide in the light of their judgements of local circumstances and financial priorities. The Act simply limited the groups to whom authorities could provide concessionary travel; authorities did not need to provide

concessionary travel (and a number did not) nor did they need to provide concessions to everybody within the statutory categories.<sup>1</sup>

As a result there were considerable differences between one area and another in the nature and availability of concessionary schemes.

## 2. **The *Transport Act 2000***

The government announced in the July 1998 transport white paper *A new deal for transport: better for everyone* that it intended to introduce a new national minimum standard for concessionary fare schemes for elderly people:

We will introduce a national minimum standard for local authority concessionary fare schemes for elderly people with a maximum £5 a year charge for a pass entitling the holder to travel at half fare on buses. This will enable elderly people, especially those on low incomes, to continue to use public transport and to use it more often, improving their access to a range of basic necessities such as health care and shops and reducing social isolation. Local authorities will still be able to offer more generous schemes if they wish to do so. The change will require legislation.<sup>2</sup>

Clauses 123 to 129 of the *Transport Bill 1999-2000* (now sections 145 to 159 of the *Transport Act 2000*) gave elderly people (defined in clause 124 as "a person who has attained pensionable age") the entitlement to a half-fare concession on local bus travel during the "relevant time" (Saturdays, Sundays and bank holidays and between 9.30 am and 11 p.m.).

It was announced on 5 June 2000 that the scheme would be extended to disabled people.<sup>3</sup> They are defined in section 146 as:

"disabled person" means a person who—

- (a) is blind or partially sighted,
- (b) is profoundly or severely deaf,
- (c) is without speech,
- (d) has a disability, or has suffered an injury, which has a substantial and long-term adverse effect on his ability to walk,
- (e) does not have arms or has long-term loss of the use of both arms,
- (f) has a learning disability, that is, a state of arrested or incomplete development of mind which includes significant impairment of intelligence and social functioning, or
- (g) would, if he applied for the grant of a licence to drive a motor vehicle under Part 111 of the Road Traffic Act 1988, have his application refused

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<sup>1</sup> *Transport Act 1985* section 93(7)(a)

<sup>2</sup> DETR *New Deal for Transport: Better for everyone*, July 1998, Cm 3950 para 4.81

<sup>3</sup> HL Deb 5 June 2000 c 929



pursuant to section 92 of that Act (physical fitness) otherwise than on the ground of persistent misuse of drugs or alcohol.

The administration remains largely as set out in the *Transport Act 1985* and continues to be the responsibility of local authorities.<sup>4</sup> Local authorities still retain discretion over the concessionary fares they offer and are free to offer more generous reductions or to extend concessionary travel to other groups (under the 1985 legislation) or on other modes of travel if they wish. A local authority may provide an alternative scheme, as long as it also provides the statutory scheme. An elderly person can opt to use the discretionary scheme if, for them, it is more attractive.

The new rules came into effect on 1 June 2001 outside London and 1 April 2001 in London.

The eligibility of men aged 60 to 64 was raised during debates in committee on the *Transport Bill 1999-2000*, for example in standing committee E on 29 February 2000, when a Liberal Democrat amendment was negated, and in the House of Lords on 10 July 2000.

In the House of Commons the minister, Keith Hill, commented:

First, we have amendment No. 577 and the consequential amendment No. 579, which were tabled in the name of the hon. Member for Bath. They would equalise the age at which men and women become eligible for concessionary fares. At present, as we have heard, eligibility is tied to pension age: women qualify for the state pension at 60, while men have to wait until they are 65.

I recognise the strength of feeling behind the amendment. My ministerial postbag has made me well aware of the issue, so I have thought hard about it. However, it is not wrong in principle that there should be a link between the age at which one qualifies for a pension and the age at which one qualifies for financial help in the form of cheaper bus fares. It may be argued that, even if such a link is appropriate, it is wrong for the ages to be different for men and women.

I understand that argument, but Parliament has already legislated on that point. The Pensions Act 1995 provides for pensionable ages to be equalised; the age for men and women will be 65, and will be phased in between 2010 and 2020. That might seem a long way off to some of my hon. Friends—though not to others—but they must believe me when I say that the years will catch them up all too quickly. As legislation that addresses the issue is on the statute book, it would be wrong to accept those amendments.<sup>5</sup>

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<sup>4</sup> DETR *Implementation of statutory minimum concessionary fares commitment*, 20 December 1999.

<sup>5</sup> Standing committee E, 29 February 2000 c 817

### **3. London**

In London section 50 of the *London Regional Transport Act 1984* placed the statutory responsibility on the London borough councils to fund concessionary travel and to enter into arrangements with London Regional Transport. The 32 London boroughs and the City of London could unanimously agree a scheme of concessionary fares for elderly, blind and disabled people, to be operated by London Transport on their behalf. The local authorities then reimbursed the transport operators. Unanimous agreement to continue the voluntary scheme for each financial year had to be reached by 31 December of the previous year. If unanimous agreement was not reached the Act provided for the secretary of state to enforce a scheme on the boroughs.

Under the *Greater London Authority Act 1999* responsibility for concessionary fares remains with the boroughs but the voluntary arrangements are now with Transport for London (TfL). Section 240 established a similar scheme to the previous one. The local authorities make voluntary arrangements with TfL and other transport operators, but if they do not agree, TfL is able to implement a reserve scheme and charge the boroughs for the cost of doing so.

The London scheme provides a standard concession for the elderly, blind and disabled people across the 33 boroughs, with the costs of the single scheme being charged back to each of the boroughs under an agreed formula, based on the number of permits issued to the residents of each borough. The scheme provides free travel for passholders on bus, underground and the docklands light railway (DLR) services. There are not as many categories of eligibility listed as in the *Transport Act 1985*: child concessions are not included in the legislation and are provided on a commercial basis by London Transport.

The *Transport Act 2000* made similar provision for Greater London as in the rest of the country, by modifying the provisions in the *Greater London Authority Act 1999* defining when the reserve free travel scheme will be triggered. In practice it has had little effect as the London scheme is already more generous than the statutory one: it would only be triggered if the London scheme became less generous than the statutory one.

## **B. Age equality**

### **1. Pension age**

The state pension age for men and women is to be gradually equalised and the travel concession legislation was amended accordingly. Originally both the *Transport Act 1985* and the *London Regional Transport Act 1984* included a category of elderly persons which was originally defined in terms of age as "men over the age of sixty-five years and women over the age of sixty years". The secretary of state for social security issued his proposals for

equalising the state pension age in a white paper in December 1993,<sup>6</sup> and legislation was passed in 1995 to raise the women's pension age gradually to reach 65 by the year 2020. The change will start in 2010 and be phased in over the following 10 years.

At the time ministers said that the link between concessionary fares and the state pension age should continue<sup>7</sup> and proposed the travel concession legislation should be amended to follow the changes in the state pension age. A consultation paper on the subject was issued by the department on 10 June 1994. The legislative changes were in section 126 (c) and schedule 4 paragraphs 9 and 10 of the *Pensions Act 1995*. This redefines those who are eligible as "persons who have attained pensionable age." A very complex table in schedule 4 paragraph 1 substitutes the relevant transitional dates between 2010 and 2020.

The following table gives examples of new pension ages during the phasing in period:

<b>Date of birth</b>	<b>Pension age</b>	<b>Date pension age attained</b>
06.04.1950 - 05.05.1950	60 years 1 month	06.05.2010
06.10.1950 - 05.11.1950	60 years 7 months	06.05.2011
06.04.1951 - 05.05.1951	61 years 1 month	06.05.2012
06.10.1951 - 05.11.1951	61 years 7 months	06.05.2013
06.04.1952 - 05.05.1952	62 years 1 month	06.05.2014
06.10.1952 - 05.11.1952	62 years 7 months	06.05.2015
06.04.1953 - 05.05.1953	63 years 1 month	06.05.2016
06.10.1953 - 05.11.1953	63 years 7 months	06.05.2017
06.10.1954 - 05.05.1954	64 years 1 month	06.05.2018
06.10.1954 - 05.11.1954	64 years 7 months	06.05.2019
06.04.1955	65 year 0 month	06.04.2020

## 2. European Court of Justice

There have been a number of appeals to the European Court of Justice (ECJ) based on the argument that conferring benefits on women at an earlier age than men constituted illegal sex discrimination against men. For example most recently was the court's case about winter fuel payments. An earlier case was the Richardson case about prescription charges. In both these cases the court found against the UK government, but these cases did not have any effect on concessionary bus passes. Another court case, the Atkins case on the age limits for transport concession schemes, related specifically to concessionary fares. In this case, the court concluded that unlike the other benefits, concessionary fares were not state benefits, and it found for the government.

<sup>6</sup> *Equality and state pension age*, December 1993, Cm 2420

<sup>7</sup> *Ibid*, para 3.17

The test case alleging discrimination against men as regards free prescriptions was brought in 1993 by Cyril Richardson, supported by the Campaign for Equal State Pension Ages, the Association of Retired Persons over 50 and Help the Aged. It was referred to the ECJ in Luxembourg by the high court on 5 May 1994, so that the court could decide whether UK law was in breach of the EC directive 79/7/EEC on equal treatment for men and women in matters of social security. The directive applies to statutory schemes that provide protection against, amongst other risks, old age and to social assistance in so far as it is intended to supplement or replace the statutory schemes. Article 7 allows member states to exclude from its scope rules that set a different age for men and women to become entitled to retirement pensions and rules that deal with the possible consequences for other benefits of having different pensionable ages if these are necessary to avoid disrupting the financial equilibrium of the social security system or to ensure coherence between the retirement pension scheme and other benefits linked to it. The advocate general delivered his opinion on the case on 13 July 1995, stating that in his view then English law *did* breach European law. The full judgement was issued on 19 October 1995, and agreed with his opinion that differential age exemptions for prescription charges were inconsistent with the 1979 directive.

On the same day that the ruling was made, the minister for health, Gerald Malone, announced in the House of Commons that amending regulations, equalising the exemption from prescription charges for both men and women at 60 would be made and would apply from the next day, 20 October 1995. However, it is worth noting that the ECJ judgement did not - and could not - state at what age the exemption should apply, but only that differential ages were in breach of European law. It was therefore up to the government to decide how equalisation should be achieved.

The Taylor case was referred to the ECJ by the high court in 1998. Mr Taylor argued that the requirement of the winter fuel payment regulations for men who were not on income support or income-based jobseeker's allowance to be over 65 and in receipt of a qualifying benefit was discriminatory since women in similar circumstances qualified at 60. He maintained that this was contrary to EC directive 79/7. The opinion of the advocate general was delivered on 23 September 1999 and he concluded that the winter fuel payments scheme came within the scope of the equal treatment directive and that discrimination in the scheme was not permissible under article 7 of the directive. On 16 December 1999 the ECJ issued its judgement: it endorsed the advocate general's opinion and found in favour of Mr Taylor. The case was won on the basis that the fuel payments were a state benefit.

The Atkins case was about the equalisation of transport concession schemes to the age of 60. Mr. Atkins' lawyers argued that cheap travel schemes were "statutory schemes which provide protection against the risks of old age" and therefore covered by the directive requiring equal treatment of the sexes in social security matters. The advocate general gave his view on 30 April 1996 that men and women should be eligible for concessionary fares from the same age. However the court held on 11 July 1996 that concessionary travel schemes were excluded from the directive because schemes benefited not only pensioners but also schoolchildren, students and the disabled and so ruled against Mr. Atkins.

### 3. European Court of Human Rights

More recently - and more successful - was the Matthews case. This involved a claim that sex discrimination in the age at which travel concessions were granted was a breach of the European Convention of Human Rights. The European Court of Human Rights ruled it admissible, but there has been no full hearing of the case.<sup>8</sup>

On 10 October 1997, Michael Matthews, aged 64, applied for an elderly person's travel permit which would have entitled him to travel free on most public transport in Greater London. He was refused. He made an application to the European Court of Human Rights alleging that his rights under article 14 of the convention (prohibition of discrimination in the application of convention rights) and article 1 of the first protocol to the convention (right to peaceful enjoyment of possession) had been breached.<sup>9</sup> A hearing was held on 28th November 2000 at the court in Strasbourg, where it was declared that the application was admissible.<sup>10</sup>

The report of the court's decision summarises the arguments of both the UK government and the applicant (Mr Matthews):

The government argue that entitlement to a bus pass is not a "possession" within the scope of article 1 of protocol no. 1, since it is not conditional on the payment of national insurance or other contributions. In their submission, the court's *Gaygusuz v. Austria* judgement of 16 September 1996 (*Reports of judgements and decisions* 1996-IV, paras 36-41) should be interpreted as supporting this position.

They further state that if, contrary to their submissions, the court were to find that the case falls within the scope of article 1 of protocol No. 1 and that article 14 is thus applicable, the difference in the age at which men and women become eligible for concessionary travel is based on objective and reasonable justifications. They point out that concessionary fares are regarded as part of a package of benefits which a person receives on attaining the age of eligibility for a state pension, currently 65 for men and 60 for women. In 1995 Parliament decided that the ages should be equalised (at 65) by the year 2020. This date, some time in the future, was chosen because of the enormous financial implications both for the state and for individuals (particularly women who had been expecting to receive a state pension at 60). The government submit that,

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<sup>8</sup> *Michael W. Matthews against the United Kingdom* (ECHR admissibility hearing 28 November 2000 application no. 40302/98  
<http://hudoc.echr.coe.int/hudoc/ViewRoot.asp?Item=0&Action=Html&X=307131139&Notice=0&Noticemode=&RelatedMode=0>

<sup>9</sup> He was supported by Liberty, the human rights organisation, acting for the campaigning group Parity (formerly the Campaign for Equal State Pension Ages)

<sup>10</sup> Liberty press release *Sex discrimination and bus passes: case found admissible by the European Court of Human Rights*, 2 December 2000

given the public policy implications, this is an area in which states should be allowed a broad margin of appreciation.

The applicant refutes the government's interpretation of the Gaygusuz judgement. He submits that, were it not for the fact that he is a man, he would have an enforceable right under English law to a bus pass and that this is sufficient to bring his complaint within the scope of article 1 of protocol no. 1.

He contends that the period of time required to equalise pension entitlement is of no relevance to the question of concessionary travel and that there is no justification for such clear sex discrimination.

The court decided that:

the application raises complex issues under article 14 of the convention and article 1 of protocol no. 1, taken together, the determination of which should depend on an examination of the merits. It concludes, therefore, that the application is not manifestly ill founded within the meaning of article 35 para 3 of the convention. No other grounds for declaring it inadmissible have been established.<sup>11</sup>

It is normal practice for the European Court of Human Rights to allow a few months, during which a friendly settlement might be reached, once it has ruled a case admissible, before proceeding to a full hearing.

On 17 February 2001, John Prescott, secretary of state for the environment, transport and the regions, announced that primary legislation would be introduced to amend the law to equalise the age at which men and women qualify for travel concessions at 60.<sup>12</sup> Amendments are required to the *Transport Acts 1985 and 2000* and the *Greater London Authority Act 1999* to achieve this.

## **II The Bill**

### **A. Clauses**

Clause 1 substitutes in the *Transport Acts of 1985 and 2000* and the *GLA 1999*, "persons who have attained the age of 60" for the present phrasing of persons of "pensionable age". Clause 2 (4) provides for the secretary of state and the National Assembly of Wales to make an Order to replace references to age 60 with a formula that gradually raises the age of entitlement to 65. This is in accordance with the provisions in the *Pensions Act 1995* and will mean eligibility for concessionary travel will be equalised at 65 by 2020.

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<sup>11</sup> ECHR website

<sup>12</sup> DETR press release *One million set to benefit from equal travel concessions*, 17 February 2001

Clause 2 allows the commencement orders to be made by the secretary of state and the National Assembly separately. The changes for Greater London may only be commenced from the beginning of the financial year (1 April). In order for the change to be introduced in April 2002, the legislation would have to be passed by 31 December 2001 when the annual scheme has to be agreed. The government has said the legislation will take effect from "April 2003 at the latest."<sup>13</sup>

## B. Costs

The *Transport Act 1985* allows concessionary fares on local bus and rail and they cost about £440 million annually in England (£490 million in Great Britain). The cost for bus fares alone is about £390 million (in Great Britain about £440 million).

The government announced on 15 November 2000 that it had allocated £54 million annually to cover the additional cost of the mandatory half-fare concessionary travel scheme in England.<sup>14</sup> Many local authorities already gave generous concessions and it would have been unfair if only those who did not, received increased grant. The extra money was therefore added to the total amount available to all local authorities. It was up to those who did not provide travel concessions to adjust their budgets to find the money.

The government's estimate of the cost of extending the mandatory scheme to around 1 million men between 60 and 64 is up to £50 million for England (£5 million for Wales; £10 million for Scotland).<sup>15</sup> That figure can be broken down between London (£15 million) and the rest of England (£35 million).<sup>16</sup> London in particular does not accept this figure as it will have to provide the full concession rather than the half fare provided for in the legislation. Local authorities are reimbursed from central government through the revenue support grant system.

The provision of concessionary travel schemes is cost-neutral on bus operators. Reimbursement arrangements under existing legislation mean local authorities are obliged to reimburse bus operators for revenue foregone and to do so in such a way that bus operators are no worse or better off as a result of operating the scheme. Increased passenger numbers may be taken into account in the reimbursement arrangements.

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<sup>13</sup> DTLR press notice *New Bill gives one million extra men cheaper fares*, 28 June 2001

<sup>14</sup> PQ HC Deb 19 December 2000 c 111W

<sup>15</sup> DETR press release *One million set to benefit from equal travel concessions*, 17 February 2001

<sup>16</sup> PQ HC Deb 11 July 2001 c 526W

## C. Lords debates

The second reading debate in the House of Lords was on 9 July 2001 (cc 935-952); the committee stage was on 24 July (cc 1895-1907); the report stage on 18 October (cc 741-4); and third reading on 25 October (cc 1135-6). The Bill emerged unchanged but various topics were raised during the debates and are discussed below.

- Cost

Concern was expressed that local authorities might not be adequately recompensed for the cost of introducing the concession and that the concessions, and those introduced by the *Transport Act 2000*, might lead to a reduction in service or to a reduction in other local authority services. Both Conservatives and Liberal Democrats introduced amendments at committee and report stage. Peers commented that there did not seem to be any definite information available about the effects of introducing the existing national scheme, but there did seem to be evidence that some local authorities were withdrawing their more generous travel schemes.<sup>17</sup> London is a particular problem because of its 100 per cent free fare scheme. Lord Falconer said in reply that the local authority associations would be consulted on the government's proposals for the local government settlement and that the government was "strongly committed to the new burdens principle." That requires the government to reimburse local authorities for the extra costs they face.

- National scheme

Under the existing legislation local authorities are free to offer reciprocity if they so choose. For example the holder of a bus pass issued by one authority might be able to use it for travel in a neighbouring authority. This was so under the 1985 legislation and was continued by the *Transport Act 2000*. What arrangements are made will vary from area to area and will depend on the local authorities. However, although a local authority will have to offer the minimum standard in its own area, it does not have to offer the minimum standard beyond the border. Thus a local authority may make a charge for using a pass in a neighbouring area.

James Gray introduced a Private Members Bill in February 2001 that, *inter alia* would have extended the areas in which mandatory travel concessions applied. Clause 8 of the Bill would have substituted "in the authority's area" in section 145 of the *Transport Act 2000* with "each of which is either in the authority's area or in the area of the neighbouring authority." This would have broadened the scope of the mandatory travel concessions for the elderly and disabled people by allowing travel between points that are either in the issuing authority's area or any neighbouring authority. Under the provisions in the clause, both ends of the journey could be outside the issuing authority's area; this

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<sup>17</sup> HL Deb 24 July 2001 c 1904; HL Deb 18 October 2001 c 741



would cover, for example, a journey from a village in the issuing authority to a town in another authority and a further journey within the town to a hospital.

In the second reading debate, the minister said he thought "the existing schemes should be allowed time to bed down before further extensions are considered" and so could not agree to the inclusion of clause 8.<sup>18</sup>

- Extension of scheme to other groups

The Conservatives put forward a rather general amendment in committee that would allow ministers to extend eligibility for travel concessions. This was supported by a number of peers who wanted to extend statutory concessionary fares to other groups such as young people. According to Lord Falconer the inclusion of young people would cost approximately £180 million.<sup>19</sup> It was also supported by those who felt that people living in rural areas would not benefit from the measure as they lived far from public transport and wanted concessions for things such as petrol vouchers. However these type of amendments are not strictly part of this Bill and in any case can be made by secondary legislation under sections 147 and 151 of the *Transport Act 2000*.

- Taxable benefit

Travel concessions are not a taxable benefit. A tax charge would arise only where a benefit was provided by reason of employment. Travel concessions are available to all those eligible regardless of whether they are employed, self-employed or not in work.<sup>20</sup>

### III Devolved bodies

Concessionary fares are within the remit of the d the Welsh Assembly and the Scottish Parliament.

#### A. Wales

Concessionary fares are within the remit of the Welsh Assembly. Ministers there made it clear that they expected all local authorities to meet the planned minimum standards for pensioners with effect from April 1999, on a voluntary basis, and money was provided by the Welsh Office.<sup>21</sup> On 20 April 2000 the Assembly environment secretary, Sue Essex, announced that bus passes would be free from 1 April 2001 and also announced the

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<sup>18</sup> HC Deb 9 February 2001 c 1247

<sup>19</sup> HL Deb 24 July 2001 c 1899

<sup>20</sup> HL Deb 24 July 2001 c 1902

<sup>21</sup> Welsh Office press release 7 January 1999, ref W99005-Tr

intention to introduce free travel on local buses for pensioners and disabled people from April 2002.<sup>22</sup>

Statutory provision for the minimum standard, that is a half fare for men aged 65 and women aged 60, was included in the *Transport Act 2000*. This will be amended by the present Bill. The National Assembly is now responsible for overseeing the administration of concessionary fare schemes by local authorities. It will introduce its own commencement order.

## **B. Scotland and Northern Ireland**

The *Transport (Scotland) Act 2001* provides the power to impose a national concessionary scheme in Scotland. Section 68 states that "Scottish ministers may by order require such local transport authority as may be specified in the order, or two or more such authorities acting jointly, to make a scheme covering such area as may be specified in the order for the provision of travel concessions to eligible persons travelling on eligible services on eligible journeys." "Eligible person" is defined as a person who resides in the area covered by the scheme and has attained "pensionable age" or suffers from certain disabilities.

The Scottish Executive has a commitment to providing free off-peak bus travel for the elderly and disabled. The transport minister, Sarah Boyack announced in 2000 that she had commissioned a research project to look at all the options for improved concessionary travel for pensioners.<sup>23</sup> Once the results of the research are available the executive would set a national level of concession applicable throughout Scotland. It aims to progressively increase this level "as and when resources become available".<sup>24</sup> It is hoped to introduce free off-peak bus travel by October 2002.

The wording in the *Transport (Scotland) Act 2001* is similar to the wording in the English legislation and which the European Court of Human Rights could deem unlawful. The Scottish Executive hopes that it will not be necessary to amend the legislation and that it can agree a voluntary scheme with the local authorities to start on 1 October 2002. This would allow off peak free travel for pensioners, those with special needs and men aged 60 to 64 all to be introduced at the same time.

If this cannot be done, primary legislation will be needed, as it is in England and Wales. The Executive are currently trying to identify appropriate legislation and if this should prove necessary, there is no guarantee that the changes will be introduced by October 2002.

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<sup>22</sup> Welsh Office press release 20 April 2000, ref W00381-Tr

<sup>23</sup> Scotsman 11 February 2000 "Nation-wide concessionary fares on the way"

<sup>24</sup> Written Answer 12 March 2001

In Northern Ireland all senior citizens over 65 have had free travel on public transport on production of a free concessionary pass since 1 October 2001.