

THE RAIL VEHICLE ACCESSIBILITY (NON-INTEROPERABLE RAIL SYSTEM) (GLASGOW SUBWAY) EXEMPTION ORDER 2023

Explanatory Note

What does the Order do?

1. The Order exempts the rail vehicles known as the Stadler Electric Multiple Unit trains (“the Stadler trains”) operated by Strathclyde Partnership for Transport (“SPT”) on the Glasgow Subway from certain requirements of the Rail Vehicle Accessibility (Non-Interoperable Rail System) Regulations 2010 (“the 2010 Regulations”). The Order is made by the Secretary of State in exercise of powers conferred by sections 183(1), (2), 4(a), (5) and (7) and 207(1) and (4) of the Equality Act 2010. The Order is being made in exercise of the Secretary of States power in section 183(4)(a) as the Order is being made in the terms of the application for the Order.

What requirements does this Order cover?

2. This Order exempts the Stadler trains from an accessibility requirement in the 2010 Regulations, as detailed in paragraph 6 below, with which the vehicle design does not comply.

3. This exemption applies to the 17 four-vehicle electric multiple unit trains (with the four vehicles designated as A, B, C and D) ordered from Stadler AG in 2016 for operation on the Glasgow Subway. The Stadler trains are numbered 301-317, making up a total of 64 vehicles. The Stadler trains are scheduled to begin entering service in 2023.

Why has the Order been made?

4. The design of the vehicles complies with the 2010 Regulations requirements except where the narrow gauge and small diameter tunnels of the Glasgow Subway restrict the interior dimensions of the train.

5. The restricted interior makes compliance with the 2010 Regulation’s requirement for priority seat and the space available to its user impracticable to achieve.

6. The vehicles therefore do not meet the following requirement of the 2010 Regulations: Part 1, Schedule 1, paragraph 13(3): priority seats, and space available to the user, must comply with the specifications shown in either diagram C2, C3 or C4 in Schedule 2.

What Mitigations are in place for non-compliance?

7. Mitigations for this non-compliance are as follows:

(a) Glasgow Subway trains have always had restricted interior dimensions limited by the tunnel diameter. Consequently, passengers who travel regularly expect restricted headroom. SPT intend to communicate the key differences between legacy and new fleet with all customers prior to introduction of the new trains.

(b) Signage will be displayed in the new trains entering service to mitigate the effect of the non-compliant headroom.

(c) SPT has fitted in priority seats in the vehicles to be as close as possible to the specifications in C2, C3 or C4, to the extent the restricted interior permits.

Why has the exemption been made without being laid before Parliament?

7. Following the amendment of section 183 of the Equality Act 2010 by the Deregulation Act 2015, which inserted paragraph (7), exemptions can now be made by administrative orders, rather than by statutory instruments. The Order will, however, be notified to Parliament in the Annual Report which the Secretary of State is required to lay before Parliament by section 185 of the Equality Act.

Who has been consulted and what did they say?

8. We consulted the Disabled Persons Transport Advisory Committee (“DPTAC”), the Office of Rail and Road (“ORR”), Transport Focus, Transport Scotland and Mobility and Access Committee for Scotland (“MACS”) on the exemption request. We also carried out a four-week public consultation via <https://www.gov.uk/government/consultations/>.

11. DPTAC responded that it did not object to the application, noting no realistic alternative to the exemption request being granted.

13. ORR responded that it had no concerns about the proposed exemption, either from the point of view of safety implications or for any effect on its ability to enforce other accessibility provisions, and requested that all parties should be reminded that exemption from any accessibility requirement does not constitute an exemption from the statutory requirement to reduce risks so far as is reasonably practicable. This reminder is included in this published Explanatory Note for this purpose.

15. Transport Focus responded it did not wish to raise any objections.

16. Transport Scotland responded that as it did not have a role in respect of the Glasgow Subway it had no specific comments.

17. MACS responded that it had no opposition to the exemption request, noting that the new carriages need to fit the existing tunnels.

20. There were no responses to the public consultation.

21. The full consultation responses can be found at Annex A.

Is there an impact assessment?

22. A full published impact assessment has not been undertaken due to the small nature of the impacts. This Exemption Order will enable the vehicles to be put into service for the benefit of those who use them and will not impose any costs on SPT.

Contact

23. Philip Hunt at the Department of Transport: Tel: 07812 483546 or e-mail: philip.hunt@dft.gov.uk, can answer any queries regarding the Order.

Annex A – Stakeholder Consultation responses

Disabled Persons Transport Advisory Committee (DPTAC)

6 March 2023

Thank you for asking us to comment on this exemption application. I have set out our comments below:

(1) The basis of the application is that because of the small diameter of the tunnels used by the Glasgow Subway it is physically impossible for the new train sets being supplied by Stadler to comply with the minimum headroom requirement for the space about the priority seats in the new carriages. An exemption from the relevant RVAR requirement is, therefore, being sought.

(2) Given the physical constraints of the Glasgow Subway we agree that physical re-boring of the entire Subway tunnel network to overcome this problem would be disproportionate. As such we cannot see any realistic alternative to the exemption request being granted and, therefore, do not object to the application.

(3) Before approving the application, the Department may, however, wish to seek reassurance from Strathclyde Partnership for Transport, if it hasn't already done so, that accessibility and the requirements of RVAR (particularly the headroom requirement) were taken properly into account when finalising the design of the new rolling stock with Stadler.

(4) Without a physical examination of the rolling stock concerned it is difficult to assess whether the shortfall in headroom will cause any practical difficulties. We are pleased, therefore, that MACs will view one of the new trains with a view to assessing whether any practical issues might result and, if so, to suggest possible mitigations. One suggestion from DPTAC that MACs and SPT might wish to consider is to highlight the non-compliant area in a different colour (perhaps yellow) to draw attention to the headroom constraint.

(5) Although unrelated to this specific application, we were pleased to see the programme of improvements being implemented on the Subway and would like to learn more about this and its impact on accessibility. I will discuss this with MACs. Similarly, this application raised some questions around the classification of these vehicles in terms of the appropriate regulatory standards. It would be useful to discuss this at the briefing meeting we have organised for next week.

Please let me know if you would like to discuss any of the above in more detail. I have copied our reply to Simon Watkins at MACs for information.

SPT response, 20 March 2023:

We are happy to erect signage which we hope will assist.

Office of Rail and Road (ORR)

9 March 2023

My apologies for missing your deadline for response. We have no concerns about the proposed exemption, either from the point of view of safety implications or for any effect on our ability to enforce other accessibility provisions. All parties should be reminded that exemption from any accessibility requirement does not constitute

an exemption from the statutory requirement to reduce risks so far as is reasonably practicable.

Transport Focus

21 February 2023

Many thanks for sending through the below exemption order request from the Strathclyde Partnership for Transport (SPT).

Whilst it's always disappointing when a fully accessible/compliant option can't be found, given the limitations of the existing subway tunnels it's understandable that there are some aspects of the new trains that won't meet the RVAR regulations. We're encouraged that SPT have engaged with MACs to seek their feedback and would hope that they'll continue to do so as the new trains are built and introduced into service. It's good to see that MAC's suggestion around the need for signage above the seats has been taken on-board.

We know that for many disabled passengers having a uniform carriage layout is preferred, so when the new trains are phased in, we'd encourage SPT to work with MACs and other local stakeholders in respect of communicating the key differences between the new and old trains in terms of the passenger experience.

Given the circumstances under which the exemption request has been made, we do not wish to raise any objections.

SPT response, 20 March 2023:

We are happy to erect signage which we hope will assist. SPT intend to communicate the key differences between legacy and new fleet with all customers prior to introduction of the new trains.

Transport Scotland

7 February 2023

Thank you for providing sight of this Exemption Application from SPT.

Transport Scotland are aware of the smaller dimensions, which are unique to the Glasgow Subway system, however as we do not have a role in respect of the Glasgow Subway we have no specific comments.

Mobility and Access Committee for Scotland (MACS)

15 March 2023

Having examined the variation proposal from SPT we can confirm that we have no opposition to it. As SPT point out, the new carriages need to fit the existing tunnels which restricts their dimensions. In practice the carriages are more of a problem for tall people standing than seated disabled passengers.

We have also had the opportunity to visit the new rolling stock at the depot and can confirm that in other respects it is a marked improvement for disabled passengers over the existing stock. The primary accessibility problems for the Glasgow Subway relate to step-free station access, rather than this rolling stock.

I hope that this submission is of value.

SPT response, 20 March 2023:

I also note MACS comments around station accessibility and this is an area that we have spoken with MACS about on one of their visits. Whilst this doesn't fall within the remit of an RVAR exemption which is related to fleet only, SPT will always seek to make improvements in this area where possible, taking into account the limits of our infrastructure and that above/around the stations. We will of course continue to work, consult and discuss station accessibility as part of our ongoing consultations with groups such as MACS.