



Department
for Transport

Annual Report
Rail Vehicle Accessibility Regulations
Exemption Orders
1 January 2010 – 31 December 2010

Presented to Parliament pursuant to
section 185 of the Equality Act 2010

October 2013

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1 Introduction

1.1 This report has been laid before both Houses of Parliament by the Secretary of State for Transport in fulfilment of obligations under section 185 of the Equality Act 2010 (“EA 2010”).

1.2 This report contains information about the exercise of the Secretary of State's powers to exempt rail vehicles from the requirements of the Rail Vehicle Accessibility (Non-Interoperable Rail system) Regulations 2010 (“RVAR”) and notes a number of important amendments which have subsequently been made to the rail vehicle accessibility regime (see **Section 4**).

1.3 The report covers the period **1st January 2010 to 31st December 2010** and has been published on the Department for Transport's website at www.dft.gov.uk.

2 Summary and statistics

2.1 This section outlines the headline figures for 2010, including the number of exemption orders brought into force, exemption applications received and the number of exemptions which have expired during the year.

- Orders brought into force: **2** (see **Section 5**)
- Applications carried forward from 2009: **1**
- Applications rejected by Ministers: **0**
- Applications received: **1** (see **Section 5**)
- Applications carried forward into 2011: **1** (see **Section 5**)
- Exemptions expiring: **0** (see **Section 6**)

3 Background

3.1 Section 182 of the EA 2010 empowers the Secretary of State to make rail vehicle accessibility regulations to ensure that it is possible for disabled people, including wheelchair users, to travel in safety and reasonable comfort in those vehicles to which the regulations apply. RVAR were made in 1998 (originally under the Disability Discrimination Act ("DDA") 1995) and were amended in 2000, 2008 and 2010. Originally they applied both to heavy and light rail vehicles but, in 2008, the former became subject to new European accessibility standards (the Technical Specification for Interoperability for Persons with Reduced Mobility or "PRM TSI") instead. In order to avoid dual regulation of those vehicles by both domestic and European requirements, it became necessary to reduce the scope of RVAR to make it applicable only to light rail vehicles (metro, underground and tramways including prescribed guided transport systems).¹ Further amendments to the regime have been made in 2010 and these are explained in detail in **Section 4**.

3.2 RVAR originally applied only to vehicles first brought into service after 31 December 1998. Almost 6,400 rail vehicles have been built to the standards in RVAR/PRM TSI and are now in service. This represents approximately 40 per cent of all rail vehicles in public transport use in Great Britain. More specifically, this includes almost 5,400 heavy rail vehicles (46 per cent of the national heavy rail fleet) and 22 per cent of the non-heavy rail fleet. The latter figure is relatively low as the majority of this cohort consists of London Underground's fleet, which largely pre-date RVAR.

3.3 The first London Underground vehicles to be regulated under RVAR continue to be progressively introduced on the Victoria Line while new Metropolitan Line trains began entering service during 2010.

3.4 In addition, almost all older rail vehicles have received accessibility improvements when they have been refurbished, and the application of RVAR when this takes place is now mandated. Further, the EA 2010 requires the Secretary of State to make regulations to ensure that all light rail vehicles are accessible by no later than 1st January 2020. Such regulations are already in place (see **Section 4**) and the same deadline also applies to rail vehicles used on the main line.

3.5 Section 183 of the EA 2010 enables the Secretary of State, on receipt of an application for exemptions from particular requirements of RVAR, to make an order (by statutory instrument) authorising specified regulated rail vehicles to be used in passenger service even though they do not conform with some or all of the requirements of RVAR. Such orders may contain conditions and set time limits.

¹ The Rail Vehicle Accessibility (Interoperable Rail System) Regulations 2008 [S.I. 2008/1746].

3.6 A number of exemptions granted to heavy rail vehicles previously regulated under RVAR are no longer applicable. Any major non-compliance with accessibility standards will need to be rectified by no later than 1 January 2020. Where minor non-compliances exist which do not materially affect accessibility but which may nevertheless cost a significant amount to rectify, refurbishment work may not be required. The Department for Transport, in conjunction with the Disabled Persons Transport Advisory Committee² ("DPTAC"), has been working with the rail industry to ensure that rectification of non-compliances is achieved on a targeted basis by the 2020 end date. Although the Government has stated that it intends to use the Public Bodies Bill to abolish DPTAC, the Department will continue to work closely with stakeholders representing the interests of disabled people in developing and administering this area of policy.

3.7 The EA 2010, which came into force on 1 October 2010, revoked and replaced the DDA 1995. However, the substance of the DDA's provisions relating to rail vehicle accessibility have been re-stated albeit in the modern style of the Bill in line with the previous administration's overall objectives to modernise, harmonise and consolidate discrimination law into one statute.

3.8 The Department for Transport routinely publishes details of exemption applications on its website at www.dft.gov.uk. By the end of 2010, 254 exemptions from individual regulations had been granted since RVAR was first introduced in 1998, of which 65 had expired. Of the outstanding 189 exemptions, 68 relate to main line vehicles and are being addressed via the Rail Vehicle Accessibility (Interoperable Rail System) Regulations 2008 (as described in **paragraph 3.6** above), while 20 exemptions relate to metro and light rail vehicles to which RVAR applies. The remaining 101 exemptions apply to new rail vehicles used on heritage and tourist networks (to which RVAR also applies).

² DPTAC are the Government's statutory advisers on the public passenger transport needs of disabled people.

4 Changes to the rail vehicle accessibility regime

4.1 A number of amendments designed to strengthen the RVAR regime were enacted in the Disability Discrimination Act 2005. However implementation was halted due to the introduction in 2008 of the European PRM TSI. This necessitated a reappraisal of the provisions of RVAR to better reflect its reduction in scope to light rail vehicles only and to achieve consistency with the way in which accessibility standards are enforced across the heavy and light rail sectors. Following public consultation on the outcome of that reappraisal during 2009, the previous administration revised accessibility regulations for the light rail sector and these regulations received broad support from stakeholders. Revised RVAR came into force on 6 April 2010. Briefly, the two current regulations are:

Rail Vehicle Accessibility (Non-Interoperable Rail System) Regulations 2010 [SI 432/2010]

4.2 As noted in **paragraph 4.1**, these Regulations revoked and replaced the original RVAR and came into force on 6 April 2010. They prescribe the technical accessibility standards to which all new light rail vehicles must comply and also to which older (i.e. pre-1999) light rail vehicles must comply as and when they are refurbished. Thus pre-1999 vehicles are brought within scope of the accessibility regime for the first time.

4.3 Following the introduction of the PRM TSI in 2008 for mainline rail vehicles, the technical accessibility standards in the new regulations for light rail vehicles were revised to reflect the regime's future focus on light rail vehicles only.

4.4 In summary the Regulations:

- set an end date, of 1 January 2020, by which time all light rail vehicles must be accessible;
- apply accessibility standards to older (i.e. pre-1999) light rail vehicles when refurbished;
- update technical accessibility standards for such vehicles in the light of practical experience; and
- provide for enforcement by the Office of Rail Regulation (ORR).

Rail Vehicle Accessibility (Applications for Exemption Orders) Regulations 2010 [SI 427/2010]

4.5 These Regulations, which came into force on 6 April 2010, revoked and replaced similar regulations which were introduced at the same time as RVAR in 1998. They prescribe who is able to apply for an exemption from light rail vehicle accessibility requirements and the information which must be provided with an application for an exemption.

4.6 The Regulations make only minor amendments to the previous provisions in light of experience of operating under the regime for over a decade and significant legislative changes since 1998. In summary, the amendments:

- clarify and extend the ability to apply for an exemption order to light rail vehicles owners and certain lessees (previously only operators could apply);
- make provision for applications to exempt light rail networks, as opposed to a vehicle specific application;
- improve the list of information which must be provided with an application in relation to a light rail vehicle; and
- list the information which must be provided with an application in relation to a light rail network.

5 Exemptions applications considered during 2010

5.1 Two applications were considered during 2010. The first of these resulted in the Rail Vehicle Accessibility (London Underground Metropolitan Line S8 Vehicles) Exemption Order 2010 [S.I. 435/2010] which came into force on 24 February 2010, following Parliamentary scrutiny and approval under the draft affirmative resolution procedure.

5.2 This Order provided an exemption from four aspects of light rail vehicle accessibility regulations allowing:

- a shorter audible door closure warning consistent with existing trains;
- a shorter visual door closure warning to match existing trains;
- variation of on-board announcements whilst at stations;
- limited intrusion of handrails into the wheelchair spaces; and
- the requirement for level access to trains to be delayed until the necessary station facilities are in place.

5.3 The exemptions apply to London Underground's new Metropolitan Line fleet which began being running on part of that line during the middle of 2010. DPTAC, ORR and London TravelWatch were consulted on the merits of this application.

5.4 Following this Order, London Underground identified a further 6 stations and platforms, used only during service disruption, at which the exemption from level access to trains would be required. A supplementary application was therefore submitted in June 2010, which has been carried over to 2011.

5.5 Additionally, the Rail Vehicle Accessibility (Networks) Exemption Order 2010 [S.I. 904/2010] came into force on 6 April 2010, following Parliamentary scrutiny and approval under the draft affirmative resolution procedure. This Order provides an exemption from the requirement to comply with RVAR for:

- all rail vehicles introduced into service prior to 1 January 1999 and operated on those heritage and tourist networks named in the schedule to the Order;
- all heritage and tourist rail vehicles introduced into service prior to 1 January 1999 and operated solely within the confines of a depot (whether on an exempt or non-exempt network);
- all rail vehicles regardless of date of entry in service operated on "miscellaneous depots" such as those used for industrial purposes, engineering or building works, within the grounds of a private house or fairground rides, etc.

5.6 In recognition of the fact that heritage and tourist rail vehicles are sometimes used to provide excursions on non-exempt networks, such as Blackpool Tramway, the draft Order makes provision to allow individual vehicles to be operated on such networks for a maximum of 20 days in any calendar year. This limit is in line with similar provisions in place for older buses and coaches and ensures that otherwise inaccessible rail vehicles are not used to provide what could be considered as a public transport service. It would still be possible for operators wishing to use their heritage vehicles in these circumstances to apply for a vehicle-specific exemption order if they wished to use them for more than 20 days.

5.7 The Department consulted a large number of heritage and tourist rail operators in order to ensure that the list of exempted networks was as complete as possible. As the consultation was undertaken at the same time as the revised draft RVAR instrument, a wide range of rail industry and disability organisations also had the opportunity to respond. DPTAC was also consulted, as required by statute.

6 Parliamentary procedure followed for each Order

6.1 The Rail Vehicle Accessibility Exemption Orders (Parliamentary Procedures) Regulations 2008 [S.I. 2975/2008] came into force in November 2008. As a result, the Secretary of State for Transport now decides on the Parliamentary procedure which will be applied to the scrutiny of any exemption order. The Regulations set out circumstances under which the Secretary of State would normally decide that the negative resolution procedure is to be followed and other circumstances when the draft affirmative resolution procedure might apply.³ However the Secretary of State retains discretion to decide that the alternative procedure may be used instead, following consultation with DPTAC.

6.2 Both exemption orders made during 2010 were subject to the draft affirmative resolution procedure in line with application of the Rail Vehicle Accessibility Exemption Orders (Parliamentary Procedures) Regulations 2008. DPTAC were supportive of this.

³ A "decision tree" to help applicants for exemption understand which procedure is likely to apply to their case has been published on the Department's website.

7 Exemptions expiring during 2010

7.1 No exemptions expired during 2010, although London Underground completed platform/train gap compliance work in advance of the expiration of a number of exemptions for the Victoria and Metropolitan Lines.

8 Other statistics

8.1 The Department for Transport publishes a number of other documents and statistics relating to the rail vehicle accessibility regime including:

- a list of all Exemption Orders made to date;
- a list of all granted exemption end dates; and
- a list of all rail vehicles regulated under RVAR and the PRM TSI.

8.2 All lists are available from www.dft.gov.uk/transportforyou/access/rail/vehicles/pubs/rva.

8.3 Previous Exemption Annual Reports are also available on the above page.



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