



Department
for Transport

Annual Report
Rail Vehicle Accessibility Regulations
Exemption Orders
1 January 2012 – 31 December 2012

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

October 2013

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This document is available from our website at www.gov.uk/dft.

ISBN: 9780108512674

Printed in the UK by The Stationery Office Limited
on behalf of the Controller of Her Majesty's Stationery Office

ID 2588099 10/13

Printed on paper containing 75% recycled fibre content minimum.

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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”); the use of his discretion to decide under which Parliamentary procedure exemptions are considered; and the consultation that informed his decisions.

1.3 It also notes the progress made in making rail vehicles in Great Britain more accessible.

1.4 The report covers the period **1st January 2012 to 31st December 2012** and has been published on the Department for Transport's website at <https://www.gov.uk/government/organisations/department-for-transport/series/rail-vehicle-accessibility-regulations-rvar-exemption-orders>

2 Summary and statistics

2.1 This section outlines the headline figures for 2012, 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: **1** (see **Section 4**)
- Applications carried forward from 2011: **1**
- Applications rejected by Ministers: **0**
- Applications received: **2** (see **Section 4**)
- Applications carried forward into 2013: **2** (see **Section 4**)
- Exemption Orders expiring: **1** (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.

3.2 Originally RVAR 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) whilst heavy rail was dealt with in separate regulations.¹ Further amendments to the regime were made in 2010.

Progress

New vehicles

3.3 RVAR originally applied only to vehicles first brought into service after 31 December 1998. Over 7,100 rail vehicles have been built to the standards in RVAR (or PRM TSI) and are now in service. This represents approximately 42 per cent of all rail vehicles in public transport use in Great Britain.

3.4 More specifically, this includes almost 5,700 heavy rail vehicles (47 per cent of the national heavy rail fleet) and over 1,500 non-heavy rail vehicles (30 per cent of that fleet). The latter figure is relatively low as the majority of this cohort consists of London Underground's ("LU") fleet, which largely pre-date RVAR, although LU now has three RVAR compliant fleets in service, on the Victoria, Metropolitan and Circle/Hammersmith & City Lines.

Existing vehicles

3.5 In addition, all older rail vehicles have received accessibility improvements when they have been refurbished. This is now required in respect of light rail by RVAR, and in respect of non-heavy rail, by the PRM TSI. Further, the EA 2010 required the Secretary of State to make regulations to ensure that all passenger rail vehicles are accessible by no later than 1st January 2020. Such regulations are now in place.²

3.6 The Department for Transport, in conjunction with the Disabled Persons Transport Advisory Committee³ ("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.

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

² The Rail Vehicle Accessibility (Non-Interoperable Rail System) Regulations 2010 [S.I. 2010/432] and the Railways (Interoperability) Regulations 2011 [S.I. 2011/3066].

³ DPTAC are the Government's statutory advisers on the public passenger transport needs of disabled people.

3.7 A number of fleets which pre-date modern access requirements have already been modernised to a level which the Department believes will enable them to operate after 2019. This means that disabled people, and others, are already benefiting from improved accessibility – 7 years ahead of the legal deadline.

3.8 So far, fleets containing over 500 older vehicles have undergone full rectification work, and this number will only increase as operators commence improvement programmes for more carriages. This means that, when combined with vehicles built to the standards, over 7,600 fully accessible rail vehicles are in service (45 per cent of the whole fleet in Great Britain, including half of all trains).

Exemptions

3.9 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.

3.10 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. See **7.6** below.

3.11 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 has been re-stated albeit in a more modern style.

3.12 The Department for Transport routinely publishes details of exemption applications on its website at:

<https://www.gov.uk/government/publications/list-of-rvar-exemption-orders>.

By the end of 2012, 273 exemptions from individual regulations had been granted since RVAR was first introduced in 1998, contained within 74 exemption Orders (including amendments).

3.13 Exemptions from 112 individual requirements had been granted to heavy rail vehicles (in reality, this was frequently an exemption from the same requirement but for different fleets). Of these, 44 had expired while a further 18 had become redundant following changes to the standards themselves. The remaining 50 exemptions will be addressed via the Railways (Interoperability) Regulations 2011, according to the targeted approach explained in **3.10** above.

3.14 Metro and light rail vehicles had been exempted from 48 individual requirements. 22 of those exemptions have expired, while two have become redundant following changes to the standards themselves (these two will be formally revoked as part of the Red Tape Challenge – see **3.16** below).

3.15 The remaining 103 exemptions apply to new rail vehicles used on heritage and tourist networks (to which RVAR also applies).

Red Tape Challenge

3.16 The Red Tape Challenge is an initiative designed to provide a process for identifying and reducing the regulatory burdens and costs created by legislation. Regulations within specific sectors are identified and members of the public and industry are invited to comment on whether they remain appropriate, should be simplified, scrapped or implemented in a non-regulatory manner.

3.17 The Department has consulted on a proposal to make RVAR exemptions administratively, rather than by Statutory Instrument. As applicants will still need to submit good evidence for any exemptions that they are seeking, the principle benefit will be in reducing the resources required by Government in taking exemptions forward. Applicants should however, benefit from hearing the outcome of their application much sooner, perhaps after 3 months rather than 6 to 12 months as now. This reduces uncertainty for operators. Responses to that consultation were overwhelmingly positive.

3.18 More background information about the proposal is set out in the Government's March 2013 consultation, which can be found with a summary of the consultation responses at:

<https://www.gov.uk/government/consultations/proposed-changes-to-exemptions-from-rail-vehicle-accessibility-requirements>

4 Exemptions applications considered during 2012

London Underground

4.1 One application was carried over from 2011. This resulted in the Rail Vehicle Accessibility (Non-Interoperable Rail System) (London Underground Circle, District and Hammersmith & City Lines S7 Vehicles) Exemption Order 2012 [S.I. 105/2012]. This came into force on 13 February 2012, following Parliamentary scrutiny and approval under the negative resolution procedure.

4.2 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; and
- the requirement for level access to trains to be delayed until the necessary station facilities are in place.

4.3 The exemptions apply to London Underground's new S7 fleet which entered service on the Circle and Hammersmith & City Lines during 2012. DPTAC, ORR and London TravelWatch were consulted on the merits of this application, and supported it. The exemptions were similar to those that had previously been approved for the Victoria and Metropolitan Lines.

Blackpool Tramway

4.4 Two new applications were received during 2012. These were both from Blackpool Transport Services and related to the ongoing use of older and heritage vehicles on the Blackpool Tramway, once a new, fully accessible tram fleet had begun providing a year round public transport service.

4.5 DPTAC, ORR, Passenger Focus and the Heritage Rail Association were consulted on Blackpool's proposals and all were supportive. However, the applications were paused in the autumn of 2012 so that Blackpool could reconsider its aspirations with regard to its older fleets, particularly in light of operating experience gained that year. Further details will, therefore, be included in the 2013 Annual Report.

4.6 Copies of consultees' responses have been available on the Department's website and within the Explanatory Memorandum that accompanies each Order.

5 Parliamentary procedure followed for each Order

5.1 The Rail Vehicle Accessibility Exemption Orders (Parliamentary Procedures) Regulations 2008⁴ ("the Parliamentary Procedures Regulations"), which was made under a power in s184 EA 2010, 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.⁵ However the Secretary of State retains discretion to decide that the alternative procedure may be used instead, following consultation with DPTAC.

5.2 Characteristics within the Exemption Order made during 2012 would normally mean that it would be considered by Parliament under the draft affirmative resolution procedure when the criteria within the Parliamentary Procedures Regulations were applied. However, the then Secretary of State used her discretion to decide that it should be considered under the negative resolution procedure instead. This was because the exemptions were for reasons that had already been considered under the draft affirmative resolution procedure for the Metropolitan Line. DPTAC was supportive of that approach.

6 Exemptions expiring during 2012

6.1 Exemption from the requirement on London Underground to provide level access to its trains from the Victoria Line platforms at Finsbury Park, Green Park and Highbury & Islington stations expired at the end of 2012. Work to the platforms to allow independent boarding and alighting by wheelchair users and others had been completed by that date, as it had at other sites on the Victoria Line where exemptions were not due to expire until the end of 2013.

⁴ S.I. 2008/2975

⁵ 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 Heavy rail accessibility

7.1 As explained in **3.2**, heavy rail vehicles (“trains”) are no longer subject to the rail vehicle accessibility regime set out by the Equality Act 2010. However, for completeness, we have set out below those derogations and dispensations that have been granted for trains in 2011 and 2012.

Derogations

7.2 In September 2011, the Department granted Siemens a derogation from the requirement to comply with the pan-European accessibility standard (the PRM TSI) on 20 new 4-car trains that it was building for London Midland and Transpennine Express. Instead, those trains would be built to an existing design, which complied with RVAR. This avoided the cost of redesigning the vehicles, and allows them more easily to inter-work with trains of the same design already in use with London Midland.

Dispensations

7.3 Regulation 46(4) of the Railways (Interoperability) Regulations 2011 allows the Secretary of State to grant dispensations from the requirement for trains to comply with the PRM TSI by 1 January 2020.

7.4 In line with the Government’s commitment to achieving an accessible rail fleet by 2020, but in a cost effective way, officials have been setting out for owners and operators which non-compliant aspects of their older trains must be rectified by that date. That information, which has been decided with DPTAC’s input, can be found here: <https://www.gov.uk/government/organisations/department-for-transport/series/heavy-rail-fleets-2020-targeted-compliance>

7.5 As explained in **3.6** above, some older vehicles have already received rectification work and more is planned. In order to encourage this early investment, the Department has granted dispensations for those aspects of certain fleets where work is not required by 2020. This is in line with the targeted compliance assessments mentioned above.

7.6 Dispensations were granted in 2012 for Porterbrook Classes 456 and 455. Further, those minor non-compliances on early RVAR stock that we believe do not need to be rectified (see **3.10** above) have also been granted dispensations following consultation with DPTAC. These can be found in the relevant folders in the link in **7.4** above.

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 <https://www.gov.uk/government/policies/making-transport-more-accessible-to-all/supporting-pages/accessible-transport-for-all>

8.3 The most recent past Exemption Annual Reports are available here: <http://assets.dft.gov.uk/publications/transportforyou-access-rail-vehicles-pubs-rvar-exemptions2010-pdf/report.pdf> and <http://assets.dft.gov.uk/publications/rvar-exemption-orders-2011/rvar-exemption-orders-2011.pdf>



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ISBN 978-0-10-186762-7



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