

# THE RAIL VEHICLE ACCESSIBILITY (NON-INTEROPERABLE RAIL SYSTEM) (GLASGOW SUBWAY) EXEMPTION ORDER 2019

## Explanatory Note

### What does the Order do?

1. The Order exempts rail vehicles known as Metro-Cammell Power Cars and Trailer Cars operated on the Glasgow Subway by Strathclyde Partnership for Transport ('SPT') from requirements under the Rail Vehicle Accessibility (Non-Interoperable Rail System) Regulations 2010 ("RVAR 2010"). The Order is made by the Secretary of State in exercise of the powers conferred by sections 183(1), (2), (4)(b) and 207(1) and (4) of the Equality Act 2010. The Secretary of State has decided to exercise the powers in section 183(4)(b) rather than section 183(4)(a) of the Equality Act 2010 because the Secretary of State thinks it is appropriate to include conditions and time limits on the exemptions.
2. The exemptions will apply to the vehicles from 1st January 2020 until 2am on 1st July 2022 at the latest.

### What requirements does this exemption order cover?

3. This order exempts the rail vehicles operating on the Glasgow Subway from the requirements set out in the following paragraphs of Schedule 1 of RVAR 2010:

#### Part 1 of Schedule 1

- (i) 3(1): The doorway in the side of a rail vehicle must be indicated clearly by doors which on their exterior contrast with the exterior of the vehicle to each side of the doors.
- (ii) 3(3): Each passenger doorway in the side of a rail vehicle must be fitted with an audible warning device which must emit warning sounds in accordance with sub-paragraph (5) inside and outside the vehicle in the proximity of each control device for the doorway or, if there is no such device, adjacent to the doorway.
- (iii) 3(5): The audible warning device must –
  - (a) where the unlocking of all passenger doors in the side of a rail vehicle is activated by a member of the operator's staff, emit a distinct sound for a period of not less than 3 seconds commencing when the doors become openable by passengers;
  - (b) emit a different distinct sound to that required by paragraph (a) and, where applicable, paragraph 1 of Part 2 of this Schedule, commencing not less than 3 seconds before the door starts to close.
- (iv) 6 & 7: Requirements relating to the provision and characteristics of a wheelchair space.
- (v) 8(2): Subject to sub-paragraphs (3) and (5), the floor of a vestibule to a passenger doorway in the side of a rail vehicle must contrast with the adjoining floor of the passenger saloon of the vehicle.
- (vi) 10(1)(a): A handrail must be fitted in every rail vehicle, on the inside as close as practicable to, and on either side of, the passenger doorways in the side of the vehicle, extending vertically from a point not more

than 700 mm above the floor to a point not less than 1200mm above the floor.

- (vii) 10(4)(a): Handrail must have a circular cross section with a diameter of not less than 30 mm and not more than 40mm.
- (viii) 10(4)(c): The handrail must have a slip-resistant surface.
- (ix) 10(4)(d): The handrail must contrast with the parts of the rail vehicle adjacent to the handrail.
- (x) 10(6)(a): The handrail fitted on the inside of the vehicle above the doorway must have a maximum width, at its major axis, of not less than 30mm and not more than 40mm.
- (xi) 10(6)(b): The handrail fitted on the inside of the vehicle above the doorway must have a minimum width at its minor axis, of not less than 20mm.
- (xii) 10(6)(c): The handrail fitted on the inside of the vehicle above the doorway must provide not less than 40mm clearance for a passenger's hand between any part of the handrail and any other part of the rail vehicle.
- (xiii) 11(1): The interior of the vehicle must be fitted with a public address system for audible and visual announcements.
- (xiv) 11(10): Displays inside a rail vehicle must, when all passengers are seated, be viewable from at least 51% of passenger seats.
- (xv) 13(3): Each priority seat and the space available to its user, must comply with the specification in C1.
- (xvi) 13(6): There must be a sign on or near to a priority seat indicating that disabled persons have priority for the use of that seat.
- (xvii) 18, 19, 20 and 21: A train consisting of 3 carriages (as the Glasgow Subway units do) must have at least 2 wheelchair spaces.

#### **Part 2 of Schedule 1**

- (xviii) 1: Where opening of passenger doors is activated by a member of the operator's staff, the audible warning device required by clause 3(3) of Part 1 must emit a distinct sound for a period of not less than 3 seconds commencing when the doors begin to operate.
- (xix) 3: At a passenger doorway in the side of a rail vehicle the edge of the floor along the entrance must be illuminated by a light placed within or immediately adjacent to that edge.

#### **Why has the Order been made?**

4. In place of undertaking a programme of upgrade works to refurbish existing trains, Glasgow Subway is currently undergoing a modernisation programme which will replace all existing trains with newly built, compliant vehicles. The new trains will start to be introduced from 2021 and will displace existing non-compliant trains by June 2022. Numbers of non-compliant vehicles in use will diminish over the two-year period as new trains are brought in to service.

5. It would not be possible to temporarily replace the vehicles with other non-compliant vehicles since the specialist nature of the gauge of the trains means that the non-compliant trains can only be removed from service when the bespoke new trains can replace them.

**Are there any conditions for the operator to meet during the period of exemption?**

6. The exemptions are subject to conditions that require the operator to ensure that the existing levels of accessibility are maintained and not diminished.

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

7. Following amendment of section 183 of the Equality Act 2010 by the Deregulation Act 2015, 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 and the Mobility and Access Committee for Scotland (“MACS”) on the exemption request, as well as carrying out a period of public consultation via our website.

9. Both DPTAC and MACS suggested in their consultation responses that the operators should set out operational mitigations, or create a Passenger Assistance scheme to ensure that passengers with reduced mobility and disabled passengers can get assistance to make journeys when required. This feedback will be shared with Glasgow Subway, with a view to their taking such measures as are appropriate.

10. No submissions were made in response to the public consultation.

11. Consultation responses can be found at Annex A.

**Is there an impact assessment?**

12. The Glasgow Subway is operated by SPT, which is a public body. For deregulatory measures affecting public bodies, no impact assessment is required.

**Contact**

13. Julia Christie at the Department of Transport: Tel: 07920 504300 or e-mail: [julia.christie@dft.gov.uk](mailto:julia.christie@dft.gov.uk) can answer any queries regarding the order.

## **Annex A – Stakeholder Consultation**

### **Consultation responses:**

#### **DPTAC –**

I have set out below DPTAC's comments on the request from the Strathclyde Partnership for Transport ('SPT') for an exemption from the RVAR regulations with regard to its fleet of Metro Cammell vehicles used on the Glasgow Subway.

#### **General remarks**

Before our specific comments on this request, we would like to make some general remarks with regard to those rail vehicles that will not be compliant with the relevant TSI or RVAR regulations by the 1<sup>st</sup> January 2020, as required by those regulations.

It is extremely disappointing that the rail vehicles concerned will not be compliant by the due date, particularly given the length of time that train companies, rolling stock companies and other agencies have had to ensure that they meet the requirements of the PTM-TSI and RVAR regulations. This failure is brought into sharp focus by the majority of rolling stock, which will be compliant, as required, by the 1<sup>st</sup> January, 2020.

The situation with regard to the majority of dispensation and exemption requests received is exacerbated by the fact that such requests have been submitted little more than three months in advance of the compliance deadline, meaning that little or no remedial work is feasible before the deadline. In such a circumstance the only enforcement action open to the Department for Transport and Office of Rail and Road, as we understand it, is to require operators and owners to remove non-compliant rolling stock from service as from the 1<sup>st</sup> January. The removal of non-compliant stock could potentially have a serious impact on train services, with detrimental impacts on local economies and rail users, including disabled passengers not affected by the areas of non-compliance, and DPTAC has taken this factor into consideration when commenting on dispensation and exemption requests.

We should further add that the large number of requests submitted so close to the compliance deadline has left us with a very limited time to review and comment on each request, meaning that we have not had the opportunity to inspect vehicles at first hand, or, for the most part, to engage directly with fleet owners or operators.

Finally, we should note that DPTAC's views should not be taken to indicate approval or non-approval of requests received by the Department. DPTAC has no statutory role as an approval body; such authority being vested solely in the Secretary of State.

#### **Specific remarks**

Our specific comments on the request from SPT with regard to their Metro Cammell vehicles used on the Glasgow Subway are as follows:

(1) We note that this is a request for a time-limited exemption from the RVAR regulations until June 2022, by which time the fleet concerned will have been replaced by new, fully-compliant vehicles.

(2) We note that the documentation supplied by the operator makes clear that the rail vehicles concerned are non-compliant with RVAR in multiple areas, including, but not limited to: the absence of wheelchair spaces, the lack of a visual information system, and the absence of door-enabled sounders.

(3) The multiple areas of non-compliance of these vehicles create serious barriers to their use by disabled people, particularly those with mobility impairments. Despite this, and despite the extended period for which the fleet will be non-compliant the operator has not put forward any proposed mitigations or any operational mitigation plan to address the inaccessibility of its services during the interim period.

(4) As such, this request does seem to reflect an egregious failure to comply with RVAR, particularly given that SPT is a public body, that has a Public Sector Equality Duty obligation under the Equality Act. In normal circumstances, we would suggest that the Secretary of State should seriously consider whether the vehicles concerned be withdrawn from service. However, in line with our observations above in the 'General Remarks' section, we recognise the fundamental importance that the Glasgow Subway has to the economy of Strathclyde region, and the impact that the withdrawal of Glasgow Subway services would have on disabled people not affected by the areas of non-compliance associated with these vehicles.

(5) As such we would suggest that a pre-condition of any exemption issued by the Secretary of State should be that the operator provides a full operational mitigation plan. In this context, DPTAC strongly suggests that the Department consults with the Mobility and Access Committee Scotland (MACS) to seek their views and to comment specifically on any mitigation plan offered by the operator.

(6) Should an exemption be granted, then it is essential that the operator fully communicates the areas of non-compliance to disabled people through its website, mobile device 'app', and printed material (including posters) in a range of accessible formats, and that staff are appropriately briefed to respond to questions from disabled customers and their carers/companions. This is particularly important, given that there is an expectation on the part of some disabled travellers that from the 1<sup>st</sup> January, 2020 all rolling stock will be fully TSI/RAVAR compliant.

Best regards

David Mapp (on behalf of DPTAC)

**Scottish Mobility and Access Committee –**

I write on behalf of the Mobility & Access Committee for Scotland (MACS) with respect to the above matter.

I can confirm that we are, in principle, happy to support the request for a dispensation for exemption from the Rail Vehicle Access Regulations (2010) as lodged by the current operator of the Glasgow Subway, Strathclyde Partnership for Transport (SPT), for the reasons detailed below.

We are satisfied that the request for a dispensation is reasonable given the time remaining before the above regulations come into effect, given the significant challenges of remediating accessibility issues with the current rolling stock and rendering it compliant before 2020 and the fact that new rolling stock is being procured and is scheduled for introduction in 2022. We recognize that it is impractical to assert that compliance should be achieved on vehicles that are over 40 years old and due for retirement shortly.

However, MACS is keen to submit that award of the dispensation should not diminish the importance of accessibility and ensuring that disabled people, those with reduced mobility, the elderly and others requiring assistance, are able to travel when and where they wish, with appropriate customer service and support. We note that all stations on the Glasgow subway are staffed and hope that SPT will recognize the importance of and opportunity this provides in ensuring equity of access for all, even where this means passengers travelling to their intended destination station via an alternative mode of transport.

Finally, we note that there is currently no formal assisted travel service provision mirroring that of the Passenger Assist service available on the main line rail network. We would urge SPT to consider extending the current informal assistance offered to passengers in order to provide consistency for those changing between main line and subway networks as well as to render a more accessible metropolitan city-wide subway travel experience for all.

I trust this is helpful. MACS is happy to provide further advice or clarification as needed and look forward to a continued and constructive relationship with yourselves and SPT.

Kind regards and best wishes,

Hussein Patwa

Co-lead, Rail

Mobility & Access Committee for Scotland (MACS)

**ORR**

Thank you for the opportunity to comment on SPT's request for exemption from the standards in RVAR 2010.

We have no objections on the grounds of safety, and have not identified restrictions on our ability to use our regulatory powers where necessary.

Regards

Giles



**Giles Turner**  
**Senior Engineer, Rail Vehicles**

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