

THE RAIL VEHICLE ACCESSIBILITY (NON-INTEROPERABLE RAIL SYSTEM) (CROYDON TRAMLINK) EXEMPTION ORDER 2020

Explanatory Note

What does the Order do?

1. The Order exempts rail vehicles operated on the Croydon Tramlink network from certain requirements of the Rail Vehicle Accessibility (Non-Interoperable Rail System) Regulations 2010 (“RVAR 2010”). The Order is made by the Secretary of State in exercise of powers conferred by sections 183(1), (2), 4(b) and 207(1)(4), (5) and (7) of the Equality Act 2010. The Secretary of State’s decision to exercise powers in section 183(4)(b) instead of powers in section 183(4)(a) of the Equality Act 2010 is because the Secretary of State thinks it is appropriate to include conditions and time limits on the exemptions, which are set out below.

What requirements does this Order cover?

2. This Order covers the requirement for passenger doors to give audio-visual warnings when opening and closing, the requirement for passenger information displays to display suitably sized characters, the requirement for handrails and handholds to have 45mm clearance for passengers’ hands around them, the requirement for an unobstructed route from an accessible door to a wheelchair space and the requirement for dedicated lights that illuminate the edge of the doorway.

3. This exemption applies to both the Bombardier CR4000 and Stadler Variobahn vehicles, to varying extents.

Why has the Order been made?

4. Under RVAR 2010, these vehicles are required to sound an alarm for 3 seconds from when the passenger doors start to open and before the passenger doors start to close, to warn passengers of their opening and closure. The alarms on these vehicles’ doors do not sound for the full 3 seconds, so a time-limited, conditional exemption has been granted to allow for a study to be conducted on the effect of non-compliant alarms on accessibility, passenger safety and service reliability.

5. Under RVAR 2010, these vehicles are required to have passenger information displays with characters that have a minimum height of 35mm to allow them to be read from a distance of 6 metres. These vehicles do not meet this requirement (other than one tram that has been fitted with a test display), so a time-limited exemption has been granted to allow time for compliance modifications to be made to all the vehicles.

6. Under RVAR 2010, all handholds and handrails are required to have a 45mm clearance around them to allow a passenger’s hand to fit between them and any other part of the vehicle. There are a small number of areas on these vehicles where the clearance is less than 45mm. The Secretary of State’s view is that because the areas of non-compliance are on balance, very small, the value of the benefits gained by making these areas compliant would not outweigh the costs of the modifications required. Therefore, an exemption has been granted for the areas affected for the remaining life of the vehicles.

7. Under RVAR 2010, the route of a wheelchair user between an accessible door and a wheelchair space is required to be clear of any obstruction. The Bombardier CR4000 vehicles have a raised floor adjacent to the accessible doors that creates a small step (approximately 250mm long, declining from 18mm high at one end to 0mm at the other). The step, which cannot be removed owing to the structural design of the vehicle, could cause an obstruction to some wheelchair users. However, the vehicles have been in use for more than 20 years without issue. It is possible for a wheelchair user to avoid this step when navigating between the door and the wheelchair space. In view of this possibility and because the cost of modifying the step to reduce its impact is greater than the value of the benefits this would deliver, an exemption from this RVAR 2010 requirement has been granted for the remaining life of the vehicles.

8. Under RVAR 2010, the floor along the edge of a passenger doorway is required to be illuminated by a light within it or immediately adjacent to it so that the edge of the doorway can be easily located. The Bombardier CR4000 vehicles do not have these lights. These vehicles have been exempted from this requirement for the remaining life of the vehicles because the light from the fluorescent tubes mounted in their ceilings adjacent to their doorways provide sufficient light to allow the edge of their doorways to be located with sufficient ease.

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

9. 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?

10. We consulted the Disabled Persons Transport Advisory Committee (“DPTAC”), the Office of Rail and Road (“ORR”), London Transport Users Committee (“London TravelWatch”) and the Croydon Mobility Forum on the exemption request. We also carried out a period of public consultation via our website.

11. DPTAC responded to the consultation as follows:

- Where trams are not compliant, it was requested that this is fully communicated with customers via websites, mobile app and printed material in a range of accessible formats.
- Handholds and handrails – DPTAC expressed a view that the 45mm regulation is there for a reason, thus it rejects the view that this should be a permanent exemption. DPTAC preferred the use of a time limited exemption to allow London Trams to rectify the compliance.

12. In response to DPTAC’s concerns, London Trams said:

- TfL have a section on their website which details the accessibility of all transport modes including London Trams, at the following link:
<https://tfl.gov.uk/transport-accessibility/?cid=transport-accessibility>

- At present the above link does not include information on the non-compliances listed in our application. We are currently consulting internally on what further information should be published in terms of passenger accessibility, including [information] on the level of compliance of the trams with RVAR 2010.

13. We note DPTAC's view that the vehicles should comply to the standards required for positioning of handrails. However, we agree with the operator's (London Trams) view that the cost for repositioning the handrails to gain additional millimetres of clearance would be significant and would require that the vehicles go into works, impacting the availability of vehicles for operational service. Ultimately, this work would not deliver a demonstrable passenger benefit and may detract from the delivery of other more pressing upgrade work which will deliver greater value. On balance, we considered it was appropriate to provide a non-time-limited exemption for against this standard.

14. ORR did not raise any objection.

15. London TravelWatch did not raise any objection.

16. Croydon Mobility Forum did not raise any objection.

17. There were no responses during the public consultation.

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

Is there an impact assessment?

19. London Trams is a wholly-owned subsidiary of Transport for London. Transport for London is a public body. For deregulatory measures affecting public bodies, no impact assessment is required.

Contact

20. Julia Christie at the Department of Transport: Tel: 07920 504300 or e-mail: julia.christie@dft.gov.uk, can answer any queries regarding the Order.

Annex A – Stakeholder Consultation

DPTAC

2 November 2019

I have set out below the DPTAC comments on the requests received from London Trams with regard to exemptions from RVAR for their Bombardier CR4000, and Stadler Variobahn trams. DPTAC has had very limited time to review and discuss the request. However, we wanted to ensure that, as far as possible, we provided you with comment before the ‘triage’ sessions that you have planned for next week. However, please be aware that DPTAC may submit additional comments by Friday 8th November.¹

General remarks

Before our specific comments on these requests, we would like to make some general remarks with regard to those rail vehicles that will not be compliant with the relevant PRM-TSI or RVAR regulations by the 1st 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 1st 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 1st January, 2020. The removal of non-compliant stock could potentially have a serious impact on rail services, with detrimental impacts on local economies and rail users, including disabled passengers not affected by the areas of non-compliance. 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 for Transport.

¹ No further comments were submitted by DPTAC

Specific remarks

Our specific comments on the request from London Trams with regard to exemptions from RVAR for the Bombardier CR4000, and Stadler Variobahn trams are as follows:

(1) We note that the operator is seeking permanent exemptions regarding: handrail clearance (all trams); floor obstruction (CR4000 trams only); and door edge lighting (CR4000 trams only) - as well as time-limited exemptions regarding doorway audible warnings (all trams), and internal PIS displays (all trams).

(2) We are surprised and disappointed that exemptions are being sought at this time, as - unusually - all London Trams rail vehicles are already regulated, and are already required to be compliant or exempted in all respects. Whilst we acknowledge that the CR4000 trams were designed and built prior to RVAR coming into force, and as such some time-limited exemptions were appropriate upon entry into service, we question why London Trams has for an extended period knowingly operated these and the Variobahn vehicles in breach of the regulations, and failed until now to seek the desired exemptions.

(3) Regarding the permanent exemptions sought, DPTAC has previously supported the concept of 'targeted compliance' - regarding older non-regulated rail vehicles, where disproportionate cost would be incurred regarding e.g. structural changes to vehicle bodies. There does not seem to be any such argument regarding newer regulated vehicles which were required to be compliant from entry into service. However, given the limited time available we have unfortunately not had time to ascertain whether any similar precedent exists.

(4) The operator's position that 'London Trams deems it uneconomical to carry out the works required' etc. seems to be an invalid argument, at least as regards the Variobahn trams, where presumably the operator was in a position to procure fully-compliant vehicles. DPTAC assumes that the handrail clearance specified in the regulations is 45mm for a reason, and we see no justification for a permanent exemption regarding this requirement. The 'Design Need' set out in the original 'RVAR Guidance' states: "This is to allow sufficient space around a handrail for people to move a hand freely around it and to avoid finger traps. Many people will have difficulty using a handrail where this space is less than 45mm". We therefore suggest that DfT considers a time-limited dispensation to allow the operator to rectify this area of non-compliance.

(5) Regarding the permanent exemptions sought for the CR4000 trams, we suggest that DfT seeks further information from the operator on the barriers to achieving compliance, noting that these vehicles were introduced into service after RVAR came into force, but were designed and constructed prior to this (albeit with some refurbishment/ modification since). As such we accept that there may be some issues where the necessary major expenditure would be disproportionate to the benefit. However, it would appear likely that some issues can be rectified without unreasonable cost, and we would encourage DfT to seek the maximum level of compliance.

(6) Regarding the time-limited exemption sought for doorway audible warnings, we suggest that any research carried out into this issue by London Trams is validated by ORR/ RSSB, and the advice of those organisations is sought regarding the implications of doorway warnings which do not meet the current standards.

(7) Regarding the time-limited exemption sought for PIS internal displays, we would urge DfT to seek the earliest possible replacement of the existing screens, which in some cases are substantially below standard. We dispute the operator's claim that 'people with a visual impairment would use the priority seats' as this may not always be the case.

(8) It is important that the operator fully communicates any outstanding 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 personal assistants/companions. This is particularly important, given that there is an expectation on the part of some disabled travellers that from the 1st January, 2020 all rolling stock will be fully TSI/RVAR compliant.

ORR

13 November 2019

Thank you for the opportunity to comment on the London Trams request for exemption from parts of RVAR.

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

London Travel Watch

8 November 2019

I can confirm that London TravelWatch has no objection to these exemptions.

Croydon Mobility Forum

12 December 2019

We write with reference to the recent consultation on RVAR Exemptions by London Trams.

It is understood that London Trams is seeking an RVAR exemption for the following two items (with the noted grounds):

1.	Space between / behind the hand rail (removing the hand rail which doesn't comply with the minimum dimensions stipulated, will be detrimental to persons with reduced mobility)
2.	Infringement into the door opening space at the designated wheel chair door (there is a slight infringement (which is part of the body work of the tram), removing this will require significant and lengthy modifications to the tram for little benefit as the wheel chair access is not hindered)

London Trams is also seeking a deferral on a further two items due the development time needed, these are as noted below:

1.	Modifications to the audible door opening sounds
2.	Modifications to the on board Tram displays

Croydon Mobility Forum support these exemptions for existing trams. It is in the interest of all passengers including those with disabilities and reduced mobility that the trams remain in service.

However, it is important that future rolling stock complies fully with these requirements.