



Department  
for Transport

**Annual Report**  
**Rail Vehicle Accessibility Regulations**  
**Exemption Orders**  
**1 January 2011 – 31 December 2011**

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”); the use of her discretion to decide under which Parliamentary procedure exemptions are considered; and the consultation that informed her decisions. It also notes the progress made in making rail vehicles in Great Britain more accessible.

**1.3** The report covers the period **1st January 2011 to 31st December 2011** and has been published on the Department for Transport's website at [www.dft.gov.uk](http://www.dft.gov.uk)

## 2 Summary and statistics

**2.1** This section outlines the headline figures for 2011, 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 4**)
- Applications carried forward from 2010: **1**
- Applications rejected by Ministers: **0**
- Applications received: **3** (see **Section 4**)
- Applications carried forward into 2012: **1** (see **Section 4**)
- Exemptions Orders expiring: **1** (see **Section 5**)

## 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.<sup>1</sup> Further amendments to the regime were made in 2010.

### ***Progress***

**3.3** RVAR originally applied only to vehicles first brought into service after 31 December 1998. 6,700 rail vehicles have been built to the standards in RVAR (or PRM TSI) and are now in service. This represents approximately 40 per cent of all rail vehicles in public transport use in Great Britain.

**3.4** More specifically, this includes over 5,700 heavy rail vehicles (46 per cent of the national heavy rail fleet) and over 1,000 non-heavy rail vehicles (22 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 two RVAR compliant fleets in service, on the Victoria and Metropolitan Lines.

**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 rail vehicles are accessible by no later than 1st January 2020. Such regulations are now in place.<sup>2</sup>

**3.6** 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 – 8 years ahead of the legal deadline.

**3.7** So far, fleets containing 91 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, almost 6,800 fully accessible rail vehicles are in service (41 per cent of the whole fleet in Great Britain).

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

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

## **Exemptions**

**3.8** 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.

**3.9** 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.

**3.10** The Department for Transport, in conjunction with the Disabled Persons Transport Advisory Committee<sup>3</sup> ("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.

**3.11** 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 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.

**3.12** The Department for Transport routinely publishes details of exemption applications on its website at [www.dft.gov.uk](http://www.dft.gov.uk). By the end of 2011, 269 exemptions from individual regulations had been granted since RVAR was first introduced in 1998, contained within 73 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 the targeted approach explained in **3.9** above.

**3.14** Metro and light rail vehicles had been exempted from 44 individual requirements. 22 of those exemptions have expired, while two have become redundant following changes to the standards themselves.

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

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

### ***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** Although RVAR Exemption Orders are by their nature deregulatory, it was appropriate to include them when the Red Tape Challenge focussed on rail. Public consultation on the rail theme was completed in December 2011 with nearly 700 responses being received. These are being considered by the Department for Transport which will come forward with its deregulatory proposals in due course.

## 4 Exemptions applications considered during 2011

**4.1** One application was carried over from 2010. London Underground sought to amend an existing exemption Order for the Metropolitan Line.<sup>4</sup> London Underground wished to add a further 6 stations and platforms, used only during service disruption, to the exemption from providing level access to trains.

**4.2** Following consultation with DPTAC, ORR and London TravelWatch, which were supportive overall, the Rail Vehicle Accessibility (Non-Interoperable Rail System) (London Underground Metropolitan Line S8 Vehicles) Exemption Order 2011<sup>5</sup> came into force on 14 February 2011.

**4.3** Three new applications were received during 2011. Two of these resulted in the Rail Vehicle Accessibility (Middleton Railway Drewry Car) and (Cairngorm Funicular Railway) Exemption (Amendment) Order 2011<sup>6</sup> which came into force on 19 December 2011, following the use of the negative resolution procedure in Parliament.

**4.4** That Order amended two extant exemption Orders dating from 2002. For the Middleton Railway, it removed a restriction which effectively prevented the operator using its unique Drewry Car on any other network, so allowing it to be experienced on other heritage and tourist lines.

**4.5** For the Cairngorm Funicular Railway, the Order extended the expiry date for its two exemptions indefinitely. DPTAC and the ORR were consulted on the merits of both applications, while Transport Scotland and the Health & Safety Executive were consulted on the merits of the application by the Cairngorm Funicular Railway. All consultees were supportive overall.

**4.6** The third application received in 2011 related to exemptions from four parts of RVAR for London Underground's new S7 fleet, to be introduced on its Circle, District and Hammersmith & City Lines. While this was considered in 2011, it will be included in the Annual Report for 2012 as the resulting Order did not come into force until then.

**4.7** Copies of consultees' responses are available on the Department's website and within the Explanatory Memorandum that accompanies each Order.

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<sup>4</sup> The Rail Vehicle Accessibility (London Underground Metropolitan Line S8 Vehicles) Exemption Order 2010 [S.I. 2010/435].

<sup>5</sup> S.I. 2011/70

<sup>6</sup> S.I. 2011/2705



## 5 Parliamentary procedure followed for each Order

**5.1** The Rail Vehicle Accessibility Exemption Orders (Parliamentary Procedures) Regulations 2008<sup>7</sup> ("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.<sup>8</sup> 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 both the Exemption Orders made during 2011 would normally mean that they would be considered by Parliament under the draft affirmative resolution procedure when the criteria within the Parliamentary Procedures Regulations were applied. However, the Secretary of State used her discretion to decide that they should be considered under the negative resolution procedure instead. This was because the Order for London Underground simply extended an exemption that had previously been considered under the draft affirmative resolution procedure, while that for the Middleton and Cairngorm Funicular Railways was considered sufficiently minor not to justify the use of the draft affirmative resolution procedure. DPTAC was supportive of this in both cases.

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<sup>7</sup> S.I. 2008/2975

<sup>8</sup> 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.

## 6 Exemptions expiring during 2011

**6.1** The Cairngorm Funicular Railway's exemptions from two parts of RVAR were due to expire at the end of 2011. However, following consultation, the Minister agreed to extend these indefinitely (see 4.4 above).

**6.2** Exemption from the requirement on London Underground to provide level access to its trains from the Victoria Line platforms at Stockwell and Vauxhall stations expired at the end of 2011. 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 and Metropolitan Lines where exemptions were not due to expire until 2012 and 2013.

## 7 Other statistics

**7.1** 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.

**7.2** All lists are available from [www.dft.gov.uk/transportforyou/access/rail/vehicles/pubs/rva](http://www.dft.gov.uk/transportforyou/access/rail/vehicles/pubs/rva)

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





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