

DISABILITY DISCRIMINATION ACT 2005

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Section 6: Rail vehicles: application of accessibility regulations

79. [Section 46](#) in Part 5 of the DDA gives the Secretary of State power to make rail vehicle accessibility regulations (“RVAR”) for the purposes of securing that it is possible for disabled persons to get on and off regulated rail vehicles in safety and without unreasonable difficulty, and to be carried in such vehicles in safety and in reasonable comfort. Section 6(1) inserts a new sub-section (4A) into section 46, the effect of which is to require the Secretary of State to exercise the power in section 46(1) to make accessibility regulations so as to ensure that all rail vehicles are regulated, i.e. subject to provisions of the RVAR, no later than 1st January 2020. This requirement does not disturb the power under section 46(5) of the DDA under which RVAR may make different provision for different vehicles, the same types of vehicles used in different circumstances, or in different circumstances. Neither does it affect the power under section 47(1) to exempt vehicles from requirements of RVAR or prevent such orders being made or having effect after 1st January 2020.
80. [Section 46\(6\)](#) defines a “rail vehicle” for the purposes of the section as a vehicle “constructed or adapted to carry passengers on any railway, tramway or prescribed system; and first brought into use, or belonging to a class of vehicle first brought into use, after 31st December 1998”. Section 6(2) replaces this definition by removing the second part of it, so that there is no ‘start date’. This change enables the Secretary of State to achieve his policy objective of applying RVAR to rail vehicles first brought into use before 1st January 1999, and also to newer vehicles which are of the same type as ones first used before RVAR came into force on 1st January 1999. This change of definition will enable the Secretary of State to set the date in RVAR by which time all rail vehicles must comply with requirements of the regulations, although that date may not be later than 1st January 2020. Together with the power in the existing section 46(5), it also means that the Secretary of State can provide for RVAR to apply to rail vehicles which are not currently regulated (i.e. not subject to RVAR) when they are refurbished, and prescribe the extent to which they must conform.
81. [Section 6\(3\)](#) replaces existing section 47(1) of the DDA. Section 47(1) currently allows the Secretary of State to make exemption orders, authorising regulated rail vehicles to be used for carriage even though they do not comply with requirements of the RVAR which they are required to comply with. The new provision continues to allow the Secretary of State to make exemption orders in respect of regulated rail vehicles, but clarifies the law by specifically allowing exemptions from the operational requirements of RVAR as well as construction requirements. As well as restating the power to exempt the use of any rail vehicle of a specified description, or the use of any rail vehicle in specified circumstances, it expressly confers power to exempt the use of vehicles of a specified description in specified circumstances. So, for example, all the vehicles used on a particular railway, for example a heritage railway, could be exempted from some or all of the requirements of the RVAR.

*These notes refer to the Disability Discrimination Act
2005 (c.13) which received Royal Assent on 7 April 2005*

82. New section 67(5A), which is inserted into the DDA by paragraph 33 of Schedule 1, provides that exemption orders made under section 47(1) of the DDA may, at the discretion of the Secretary of State, be subject to either the draft affirmative or the negative resolution procedure. Section 6(4) inserts new section 67A into the DDA, which sets out the procedure for the exercise of this discretion. New section 67A(3) empowers the Secretary of State to make regulations setting out the criteria for the exercise of this discretion. The Secretary of State is required to consult the Disabled Persons Transport Advisory Committee, and other appropriate bodies, before making such regulations, which will be subject to the draft affirmative procedure. Until regulations made under new section 67A(3) are in force, exemption orders made under section 47(1) of the DDA will be subject to the draft affirmative resolution procedure. This will give greater parliamentary scrutiny over the making of exemption orders under section 47(1).
83. [Section 6\(5\)](#) inserts new section 67B into the DDA to require the Secretary of State to produce an annual report on rail vehicle exemption orders. The report will be produced for each calendar year, and must contain details of exemption orders made under section 47(1). It must also contain information about the consultation on both applications for exemption orders and the exercise of the discretion as to whether such orders should be subject to the negative or affirmative resolution procedure. The report may also include other information, for example, information about applications for exemption which have been rejected or only granted in part. The report is required to be laid before both Houses of Parliament.