

Draft Regulations laid before Parliament under paragraphs 2 and 2A (1), (2) (a) and (3) (a) of Schedule 2 to the European Communities Act 1972, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2008 No.

**DISABLED PERSONS
TRANSPORT**

**The Rail Vehicle Accessibility (Interoperable
Rail System) Regulations 2008**

Made - - - - ********

Coming into force in accordance with regulation 1

The Secretary of State for Transport makes the following Regulations in exercise of the powers conferred by—

- (a) section 2(2) of the European Communities Act 1972(1);
- (b) section 46(1) of the Disability Discrimination Act 1995(2); and
- (c) section 247 of the Transport Act 2000(3).

She is a Minister designated for the purposes of section 2(2) of the European Communities Act 1972 in relation to measures relating to railways and railway transport(4).

In accordance with section 46(11) of the Disability Discrimination Act 1995 she has consulted the Disabled Persons Transport Advisory Committee (5) and such other representative organisations as she thinks fit.

A draft of this instrument has been laid before Parliament in accordance with paragraphs 2 and 2A (1), (2) (a) and (3) (a) of Schedule 2 to the European Communities Act 1972(6) and approved by a resolution of each House of Parliament.

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- (1) 1972 c.68; section 2(2) was amended by the Legislative and Regulatory Reform Act 2006 (c.51), section 27(1) (a). The enabling powers of section 2(2) were extended by virtue of the amendment of section 1(2) of the 1972 Act by section 1 of the European Economic Area Act 1993 (c.51).
 - (2) 1995 c.50; section 46 was amended for Great Britain by the Disability Discrimination Act 2005 (c.13), section 6(1) and (2), section 19(1) and Schedule 1 Part 1 paragraphs 1 and 27(b), from a date to be appointed. There are other amendments to section 46 but none are relevant. Corresponding amendments were made for Northern Ireland by S.I. 2006/312 (N.I. 1), article 8(1) and (2), article 19 and Schedule 1 paragraphs 1 and 21(a) and Schedule 2 from a date to be appointed.
 - (3) 2000 c.38.
 - (4) S.I. 1996/266, to which there are amendments not relevant to these Regulations.
 - (5) The Disabled Persons Transport Advisory Committee was established under section 125 of the Transport Act 1985 (c. 67) and has a statutory duty to provide the Secretary of State with advice on the public passenger transport needs of disabled people.
 - (6) Paragraph 2 was amended by the Legislative and Regulatory Reform Act 2006 (c.51), section 27(2) (a). Paragraph 2A was inserted by section 29 of that Act.

Citation and commencement

1. These Regulations may be cited as the Rail Vehicle Accessibility (Interoperable Rail System) Regulations 2008 and come into force on the fifth day after the day on which they are made, or the 1st July 2008, whichever is later.

Amendments to the Rail Vehicle Accessibility Regulations 1998

2.—(1) The Rail Vehicle Accessibility Regulations 1998(7) are amended as follows.

(2) In regulation 2(1)(interpretation), after the definition of “contrast” insert—

““conventional TEN rail system” has the meaning given in regulation 2(3) of the Railways (Interoperability) Regulations 2006(8);

“high-speed rail system” has the meaning given in regulation 2(3) of the Railways (Interoperability) Regulations 2006;”.

(3) In regulation 3 (application of regulations)—

(a) at the beginning of paragraph (1), insert “Subject to paragraph (3),”; and

(b) after paragraph (2) insert—

“(3) These Regulations do not apply to rail vehicles used in the provision of a service for the carriage of passengers on—

(a) the high-speed rail system; or

(b) the conventional TEN rail system.”.

Amendments to the Disability Discrimination Act 2005

3.—(1) Section 6 of the Disability Discrimination Act 2005(9) (rail vehicles: application of accessibility regulations) is amended as follows.

(2) For subsection (2) substitute—

“(2) In subsection (6) of that section—

(a) before the first definition there is inserted—

““conventional TEN rail system” has the meaning given in regulation 2(3) of the Railways (Interoperability) Regulations 2006;

“high-speed rail system” has the meaning given in regulation 2(3) of the Railways (Interoperability) Regulations 2006;”; and

(b) for the definition of “rail vehicle” there is substituted—

““rail vehicle” means a vehicle constructed or adapted to carry passengers on any railway, tramway or prescribed system other than a vehicle used in the provision of a service for the carriage of passengers on the high-speed rail system or the conventional TEN rail system;”.”.

Amendments to the Railways (Interoperability) Regulations 2006

4.—(1) The Railways (Interoperability) Regulations 2006 are amended as follows.

(2) In regulation 2(3) (interpretation), at the end of the definition of “project subsystem” insert—

(7) S.I. 1998/2456, amended by S.I. 2000/3215.

(8) S.I. 2006/397, amended by S.I. 2007/3386.

(9) 2005 c.13.

“but where—

- (a) that subsystem is rolling stock; and
 - (b) the project is for the upgrade or renewal of it,
- “project subsystem” means the part of it upgraded or renewed.”.

(3) In regulation 3 (application)—

- (a) in paragraph (2), after “These Regulations” insert “, apart from regulation 4B,”; and
- (b) for paragraph (3) substitute—

“(3) Notwithstanding paragraph (2)—

- (a) the placing in service of a structural subsystem on the high-speed rail system or the conventional TEN rail system before 1st August 2006 shall not affect the application of these Regulations to that subsystem for any upgrading or renewal where having been upgraded or renewed that subsystem is placed in service on the high-speed rail system or the conventional TEN rail system on or after 1st August 2006; and

(b) these Regulations apply to rolling stock to which regulation 4A (2) applies.”.

(4) In regulation 4 (requirement for authorisation)—

- (a) in paragraph (6), in the words before sub-paragraph (a), for “project” substitute “structural”;
- (b) in paragraph (7)(a), for “project” substitute “structural”; and
- (c) after paragraph (9) insert—

“(9A) In paragraphs (8) and (9)—

- (a) “authorisation” includes authorisation deemed to be given by operation of regulation 4A(2)(a); and
- (b) in such a case, the date referred to in paragraph (9)(b)(i) is deemed to be the date that the original item of rolling stock referred to in paragraph (8) was placed in service.”.

(5) After regulation 4 insert—

“Deemed authorisation

4A.—(1) Subject to paragraphs (4) and (5), paragraph (2) applies to a unit of rolling stock which—

- (a) is constructed or adapted to transport passengers; and
- (b) was first brought into use after 31st December 1998 and before 1st August 2006; and
- (c) is used in the provision of a service for the carriage of passengers on the high-speed rail system or the conventional TEN rail system.

(2) A unit of rolling stock to which this paragraph applies is deemed—

- (a) to have been authorised under regulation 4 to be placed in service on both the high-speed rail system and the conventional TEN rail system; and
- (b) to have been assessed against the Rail Vehicle Accessibility Regulations 1998, as notified national technical rules, for that authorisation.

(3) In its application to Northern Ireland the reference in paragraph (2) (b) to the Rail Vehicle Accessibility Regulations 1998 shall have effect as a reference to the Rail Vehicle Accessibility Regulations (Northern Ireland) 2001⁽¹⁰⁾.

(4) Paragraph (2) does not apply to a unit of rolling stock to the extent that immediately before its coming into force the unit—

- (a) was authorised under regulation 4; and
- (b) had been assessed against the Rail Vehicle Accessibility Regulations 1998, or the Rail Vehicle Accessibility Regulations (Northern Ireland) 2001, for that authorisation.

(5) Paragraph (2) does not apply to a unit of rolling stock which belongs to a class of rolling stock first brought into use on or before 31st December 1998.

(6) Notwithstanding paragraph (2)—

- (a) regulation 4B applies to any unit of rolling stock to which paragraph (2) applies; and
- (b) regulation 4(1) applies to any such rolling stock for any upgrading or renewal.

Accessibility for people with reduced mobility

4B. No person shall use rolling stock in the provision of a service for the carriage of passengers on the high-speed rail system or the conventional TEN rail system on or after 1st January 2020 unless it has been constructed, renewed, upgraded or modified to comply with the technical standards, and is operated to comply with the operational standards, required by—

- (a) the TSI relating to persons with reduced mobility set out in the Annex to Decision 2008/164/EC of the European Commission of 21st December 2007⁽¹¹⁾, or any amended version of it, or any TSI which replaces it; or
- (b) the Rail Vehicle Accessibility Regulations 1998; or
- (c) the Rail Vehicle Accessibility Regulations (Northern Ireland) 2001; or
- (d) the TSI, or amended version of it or TSI replacing it, referred to in paragraph (a) except to the extent that—
 - (i) the rolling stock or its operation complies with the technical or operational standards required by the Regulations referred to in paragraphs (b) or (c), and
 - (ii) a derogation from part of it has been granted pursuant to regulation 6, and
 - (iii) a determination that part of it does not apply has been made under regulation 5(8).”.

(6) In regulation 5 (8) (renewal or upgrading of subsystems), in the words before subparagraph (a), omit “and the project subsystem is part of the conventional TEN rail system”.

(7) In regulation 11 (technical file), after paragraph (6) insert—

“(7) The duties of a contracting entity, or an owner of a project subsystem, under paragraphs (2) and (4) to (6) do not arise by virtue of an authorisation being deemed to be given under regulation 4 by operation of regulation 4A(2)(a).”.

(8) In regulation 12 (duty on operator to ensure essential requirements are met)—

- (a) at the beginning of paragraph (2), insert “Subject to paragraphs (3) and (4),”; and
- (b) after paragraph (2) insert—
 - “(3) Where—

⁽¹⁰⁾ S.R. (N.I.) 2001 No. 264.

⁽¹¹⁾ O.J. No. L 64, 7.3.08, p. 72.

- (a) the notified national technical rules against which a project subsystem was assessed for authorisation were the Rail Vehicle Accessibility Regulations 1998; and
- (b) an exemption order has been made under section 47 of the Disability Discrimination Act 1995⁽¹²⁾ in relation to that project subsystem;

the duty in paragraph (2) (b) to ensure that the project subsystem is operated and maintained in conformity with those Regulations is a duty to do so save to the extent the order exempted it from those Regulations, notwithstanding any provision in the order for the expiry of such exemption.

(4) Paragraph 2(a) does not apply to rolling stock by virtue of an authorisation being deemed to be given under regulation 4 by operation of regulation 4A(2)(a).

(5) Paragraph (2) is without prejudice to regulation 4B.

(6) In this regulation—

- (a) “project subsystem” includes a unit of rolling stock deemed to be authorised under regulation 4 by operation of regulation 4A(2)(a); and
- (b) the reference in paragraph (3) (a) to the Rail Vehicle Accessibility Regulations 1998 shall, in its application to Northern Ireland, have effect as a reference to the Rail Vehicle Accessibility Regulations (Northern Ireland) 2001.”

(9) In regulation 33 (national vehicle register), after paragraph (1) insert—

“(1A) This regulation does not apply to rolling stock by virtue of an authorisation being deemed to be given under regulation 4 by operation of regulation 4A(2)(a).”

Signed by authority of the Secretary of State for Transport

Date

Name
Parliamentary Under Secretary of State
Department for Transport

⁽¹²⁾ For Great Britain, subsections (1) and (1A) of section 47 were substituted for subsection (1) as originally enacted by the Disability Discrimination Act 2005 (c.13), section 6(3). Corresponding amendments were made for Northern Ireland by S.I. 2006/312 (N.I. 1), article 8(3).

EXPLANATORY NOTE

(This note is not part of the Order)

These Regulations pave the way for the introduction on the 1st July 2008 of European accessibility standards for passenger rail vehicles on the “interoperable rail system”. This rail system comprises the major lines of the main line rail system of the UK, representing about 70% by track miles of the mainline network. They remove these lines from the scope of national rail vehicle accessibility legislation, to prevent there being two differing regulatory regimes for vehicle accessibility on them, and make consequential and supplementary provision.

The European accessibility standards are set out in the Technical Specification for Interoperability relating to persons with reduced mobility which is annexed to Decision 2008/164/EC of the European Commission of 21st December 2007 (O.J. No. L 64, 7.3.08, p. 72). They will apply in the UK under the Railways (Interoperability) Regulations 2006 (S.I. 2006/397) (“RIR”).

In particular the Regulations remove the interoperable rail system from the scope of the Rail Vehicle Accessibility Regulations 1998 (“RVAR”) (*regulation 2*) and makes an adjustment to the Disability Discrimination Act 2005 which will have the effect of removing the system from the scope of the rail vehicles provisions of Part V of the Disability Discrimination Act 1995 (*regulation 3*).

Rail vehicles hitherto subject to RVAR (or their Northern Ireland equivalent) which have been operating on the interoperable rail system since before RIR became applicable to them from 1st August 2006 for renewals or upgrades, are deemed to have been authorised under RIR regulation 4 and to have been assessed against the technical standards in RVAR (or their Northern Ireland equivalent) (as notified national technical rules) for that authorisation (*regulation 4(5) inserting new RIR regulation 4A*). The effect will be to make operators subject to the duty in RIR regulation 12 to operate and maintain those vehicles to those standards. This duty will be enforceable under RIR in place of the enforcement provisions of the Disability Discrimination Act 1995.

Consequential and supplementary adjustments are made to RIR. In particular RIR regulation 12 is amended to exempt vehicles assessed against RVAR standards from compliance with those standards if and to the extent that exemptions from those standards have previously been authorised (*regulation 4(8) (a) and (b)*). New RIR regulation 4(9A) is inserted to clarify that “authorisation” in RIR paragraphs 4(8) and (9) includes a deemed authorisation under new RIR regulation 4A, (*regulation 4(4) (c)*). Such deemed authorisation will not trigger the duties relating to technical files in RIR regulation 11, nor those relating to the national vehicle register in RIR regulation 33, (*regulation 4(7) and (9)*).

The Regulations provide that all passenger vehicles operating on the interoperable rail system must comply with accessibility standards by 2020 (*regulation 4(5) inserting new RIR regulation 4B*). Those standards are the European accessibility standards, or RVAR (or their Northern Ireland equivalent), or a mix of the two, subject to any derogations or determinations granted under the limited powers in RIR to grant exemptions from European technical standards. The power, by determination, to grant exemptions is extended to apply to the whole interoperable rail system (*regulation 4(6)*). New RIR regulation 4B is to be complied with even by vehicles deemed under new RIR regulation 4A (2) to have been assessed against RVAR, and notwithstanding any obligation under RIR regulation 12 to keep a vehicle in the condition in which it was assessed for authorisation (*regulation 4(5) inserting into RIR new regulation 4A (6) (a), and regulation 4(8) (b) inserting into RIR new regulation 12(5)*).

RIR regulation 3 (application) is adjusted, with minor modifications, to ensure all vehicles to which new RIR regulations 4A (2) and 4B apply are brought within its scope (*regulation 4(3)*).

Modifications are made to RIR to clarify that for renewals and upgrades of rolling stock, although an authorisation under RIR regulation 4 is for the vehicle, the “project subsystem” to be assessed against required standards is that part of it to which works have been carried out (*regulation 4(2) and (4) (a) and (b)*).

An impact assessment of the effect these Regulations will have on the costs of business can be obtained from the Department for Transport, Great Minister House, 76 Marsham Street, London SW1P 4DR. It is also annexed to the Explanatory Memorandum published with these Regulations on the Office of Public Sector Information website, (www.opsi.gov.uk).