
STATUTORY INSTRUMENTS

2010 No. 432

The Rail Vehicle Accessibility (Non-Interoperable Rail System) Regulations 2010

Citation, commencement and extent

1. These Regulations—
 - (a) may be cited as the Rail Vehicle Accessibility (Non-Interoperable Rail System) Regulations 2010,
 - (b) come into force on 6th April 2010, and
 - (c) do not extend to Northern Ireland.

Interpretation

- 2.—(1) In these Regulations—
 - “the 1974 Act” means the Health and Safety at Work etc. Act 1974⁽¹⁾;
 - “the 1995 Act” means the Disability Discrimination Act 1995;
 - “cableway installation” means an installation made up of several components that—
 - (a) is used or intended to be used for the purpose of providing an operational system for carrying persons in vehicles, on chairs or by towing devices,
 - (b) uses cables positioned along the line of travel to provide suspension or traction or both, and
 - (c) is one of the following—
 - (i) a cable car (including a gondola and chair lift) where the cabins or chairs are lifted or displaced by one or more carrier cables;
 - (ii) a drag lift, where users with appropriate equipment are dragged by means of a cable; or
 - (iii) a funicular railway or other installation with vehicles mounted on wheels or on other suspension devices where traction is provided by one or more cables;but does not include cable operated tramways, rack railways or lifts;
 - “class of passenger accommodation” means a category of passenger accommodation in a rail vehicle charged out at a different fare or fares from another category of passenger accommodation in the same rail vehicle or train;
 - “contrast” means contrast in the amount of light reflected;
 - “conventional TEN rail system” has the meaning given in regulation 2(3) of the Railways (Interoperability) Regulations 2006⁽²⁾;

(1) 1974 c. 37.

(2) S.I. 2006/397, amended by S.I. 2007/3386 and S.I. 2008/1746.

“display” means a screen fitted to the exterior or interior of a rail vehicle which is used to indicate the destination or route number of a rail vehicle, or make other visual announcements, which forms part of a public address system for visual announcements;

“EU specifications” means the functional and technical specifications in—

- (a) section 4.2.2 of the technical specification for interoperability relating to “persons with reduced mobility” set out in the Annex to Decision [2008/164/EC](#) of the European Commission of 21st December 2007⁽³⁾, known as the “PRM TSI”, (as modified in section 7.4.1.3.2 for GB rolling stock); or
- (b) any amended or replacement version of those specifications adopted by an EU institution from time to time;

“exemption order” means an order made under section 47 of the 1995 Act;

“guided bus” means a motor vehicle, used wholly or mainly for the carriage of passengers, which is designed or adapted to travel along roads and to carry more than eight passengers, but which is not a tramcar, and which for some or all of the time when in operation—

- (a) travels along roads, and
- (b) is guided (whether while on the road or at other times) by means of—
 - (i) apparatus, a structure or other device which is fixed and not part of the bus; or
 - (ii) a guidance system which is automatic;

“guided transport” has the same meaning as in section 67(1) of the Transport and Works Act 1992⁽⁴⁾;

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

“lift”, in paragraph (3) of this regulation, means an appliance, other than a cableway installation, serving specific levels and having a car moving—

- (a) along guides which are rigid; or
 - (b) along a fixed course even where it does not move along guides which are rigid;
- and inclined at an angle of more than 15 degrees to the horizontal and intended wholly or mainly for the transport of persons;

“miniature railway” means a system of transport employing parallel rails which—

- (a) provide support and guidance for vehicles carried on flanged wheels, and
- (b) form a track of a gauge of less than 350 millimetres;

“narrow width vehicle” means a vehicle which, measured on the exterior, has a car body width of 2.8 metres or less at its widest point and a height above rail of 3.1 metres or less unloaded in normal operating condition;

“network” means any permanent way or other means of guiding or supporting rail vehicles or any section of it;

“operator”, in relation to a rail vehicle, means the person having the management of that vehicle;

“passenger saloon” means that part of the interior of a rail vehicle provided for the accommodation of passengers, but does not include a toilet cubicle or a vestibule adjoining an exterior doorway;

⁽³⁾ O.J. No. L64, 7.3.08, p. 72.

⁽⁴⁾ [1992 c. 42](#).

“photocell device” means a device which operates using a combination of a beam of light, a transmitter and a receiver;

“podcar” means an automated driverless vehicle constructed to carry seated passengers, up to a maximum of 6, on a dedicated network of fixed guideways to a passenger selected destination without intermediate stops (whether or not the vehicle is also capable of being operated in some other way);

“prescribed system” means a system of transport using a mode of guided transport prescribed in paragraph (2);

“priority seat” means a seat designated in accordance with paragraph 13 of Schedule 1;

“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;

“railway” has the same meaning as in section 67(1) of the Transport and Works Act 1992;

“reference wheelchair” means an occupied wheelchair the dimensions of the chair and occupant being as shown in diagram A in Schedule 2;

“road”—

(a) in England and Wales, means any length of highway or of any other road to which the public has access, and includes bridges over which a road passes; and

(b) in Scotland, has the same meaning as in section 151 of the Roads (Scotland) Act 1984(5);

“train” means two or more rail vehicles, other than tramcars, coupled together;

“tramcar” means a rail vehicle (whether or not articulated in one or more places) constructed or adapted to carry passengers on a railway or tramway and to be accessible by persons at a tram stop;

“tram stop” means a stopping place for tramcars in a road provided for persons to board or leave a tramcar;

“tramway” has the same meaning as in section 67(1) of the Transport and Works Act 1992;

“wheelchair-compatible doorway” means a passenger doorway in the side of a rail vehicle provided in accordance with paragraph 6 of Schedule 1;

“wheelchair-compatible toilet” means a passenger toilet provided in accordance with paragraph 16(1) of Schedule 1, with or without compliance with paragraph 16(1) (h);

“wheelchair space” means a space for a disabled person in a wheelchair which is provided in accordance with paragraph 18 of Schedule 1;

“width” means, when applied to a doorway or passageway, the unobstructed width of that doorway or passageway up to a height of 1400 millimetres above the door sill or floor, and “wide” is to be construed accordingly.

(2) Subject to paragraph (3), in these Regulations prescribed modes of guided transport are vehicles, constructed or adapted to carry passengers, which for some or all of the time when they are in operation are guided by means of—

(a) rails, beams, slots, guides or other apparatus, structures or devices which are fixed and not part of the vehicle; or

(b) a guidance system which is automatic but which works by using means of guidance external to the vehicle.

(3) The modes of transport prescribed in paragraph (2) do not include—

(a) a vehicle which operates on a railway;

- (b) a vehicle which operates on a tramway;
- (c) a vehicle which operates on a miniature railway;
- (d) a cableway installation;
- (e) a lift;
- (f) a guided bus; or
- (g) any other mode of guided transport comprising a vehicle which for some or all of the time when it is in operation travels along roads.

(4) In these Regulations a reference to the requirements of Part 1 of Schedule 1 means that Part as read with the diagrams referred to in it and shown in Schedule 2.

Rail vehicles first used after 31st December 1998

3.—(1) Subject to paragraph (2), this regulation applies to a rail vehicle first brought into use after 31st December 1998.

(2) This regulation does not apply to a rail vehicle which—

- (a) belongs to a class of rail vehicle first brought into use before 1st January 1999; or
- (b) is constructed or adapted to carry passengers on a prescribed system and which does not conform with the requirements of Part 1 of Schedule 1 when these Regulations come into force.

(3) Subject to paragraphs (7) and (11), the requirements of Part 1 of Schedule 1 apply in relation to a rail vehicle to which this regulation applies.

(4) Paragraph (7) applies where the Office of Rail Regulation receives a valid notice in writing from an operator of a rail vehicle to which this regulation applies, which has been constructed or adapted to carry passengers on a railway, opting to apply the requirements of the EU specifications in relation to that vehicle instead of the requirements of Schedule 1.

(5) A notice referred to in paragraph (4) will be a valid notice if it is properly addressed to the Chief Executive of the Office of Rail Regulation and lists which version of the EU specifications will be applied in relation to the rail vehicle or, where more than one version, which version will be applied in relation to which aspects of the construction or operation of the rail vehicle, instead of the requirements of Schedule 1.

(6) A notice referred to in paragraph (4) may be—

- (a) superseded by a subsequent notice under that paragraph; or
- (b) withdrawn in writing whereupon paragraph (7) will cease to apply to the rail vehicle.

(7) Where this paragraph applies—

- (a) the requirements of Part 1 and Part 2 of Schedule 1 do not apply in relation to the rail vehicle, and
- (b) the requirements of the EU specifications, as indicated in the notice referred to in paragraph (4), apply in relation to the rail vehicle.

(8) Subject to paragraphs (7), (10) and (11), the requirements of Part 2 of Schedule 1 apply in relation to a rail vehicle to which this regulation applies—

- (a) if and to the extent that it already conforms with them when these Regulations come into force;
- (b) if it is constructed pursuant to a contract entered into after 5th April 2011 and does not belong to a class of rail vehicle first brought into use before that date; or
- (c) to the extent indicated in paragraph (9) if after 5th April 2011 any refurbishment work described in column (2) of the table in Schedule 4 is carried out to it.

(9) Where paragraph (8)(c) applies, those requirements of Part 2 of Schedule 1, which are indicated in column (3) of the table in Schedule 4 opposite the description of the refurbishment work, apply in relation to that work.

(10) Paragraph (8) (c) does not apply to refurbishment work which—

- (a) only comprises like for like replacement;
- (b) is required to be carried out by a contract in writing entered into before 6th April 2011; or
- (c) is carried out in-house by the operator pursuant to an arrangement made in writing before 6th April 2011.

(11) Paragraphs (3) and (8) are subject to any exemption order which applies to the rail vehicle.

Rail vehicles first used, or belonging to a class first used, before 1st January 1999, or certain rail vehicles used on prescribed systems

4.—(1) This regulation applies to a rail vehicle first brought into use—

- (a) before 1st January 1999;
- (b) after 31st December 1998 which belongs to a class of rail vehicle first brought into use before 1st January 1999; or
- (c) after 31st December 1998 which is constructed or adapted to carry passengers on a prescribed system and which does not conform with the requirements of Part 1 of Schedule 1 when these Regulations come into force.

(2) Subject to paragraphs (3) and (7), where after 5th October 2010 and before 1st January 2020 any refurbishment work described in column (2) of the table in Schedule 3 is carried out to a rail vehicle to which this regulation applies, the requirements of Part 1 of Schedule 1, which are indicated in column (3) of that table opposite the description of that work, apply in relation to that work.

(3) Paragraph (2) does not apply to refurbishment work which—

- (a) only comprises like for like replacement;
- (b) is required to be carried out by a contract in writing entered into before 6th October 2010; or
- (c) is carried out in-house by the operator pursuant to an arrangement made in writing before 6th October 2010.

(4) Subject to paragraph (7), on and after 1st January 2020 the requirements of Part 1 of Schedule 1 apply in relation to a rail vehicle to which this regulation applies.

(5) Subject to paragraphs (6) and (7), where after 5th April 2011 any refurbishment work described in column (2) of the table in Schedule 4 is carried out to a rail vehicle to which this regulation applies, the requirements of Part 2 of Schedule 1, which are indicated in column (3) of that table opposite the description of that work, apply in relation to that work.

(6) Paragraph (5) does not apply to refurbishment work which—

- (a) only comprises like for like replacement;
- (b) is required to be carried out by a contract in writing entered into before 6th April 2011; or
- (c) is carried out in-house by the operator pursuant to an arrangement made in writing before 6th April 2011.

(7) Paragraphs (2), (4) and (5) are subject to any exemption order which applies to the rail vehicle.

Duty on operator of rail vehicles

5. An operator of a rail vehicle to which regulation 3 or 4 applies must not use it for the carriage of passengers unless any requirements made to apply in relation to it by regulation 3 or 4, as the case may be, are complied with.

Enforcement

6.—(1) It is the duty of the Office of Rail Regulation to make adequate arrangements for the enforcement of these Regulations.

(2) Subject to paragraph (5), the provisions of the 1974 Act specified in paragraph (3) (the “specified provisions”) apply for the purposes of the enforcement of these Regulations as if in the specified provisions—

- (a) a reference to the “enforcing authority” was a reference to the Office of Rail Regulation;
- (b) a reference to the “relevant statutory provisions” was a reference to these Regulations and to the specified provisions; and
- (c) a reference to “health and safety regulations” was a reference to these Regulations.

(3) The provisions of the 1974 Act referred to in paragraph (2) are—

- (a) sections 19 and 20 (appointment and powers of inspectors)(6), excluding section 20(3);
- (b) sections 21 and 22 (improvement and prohibition notices)(7);
- (c) section 23 (provisions supplementary to sections 21 and 22)(8), excluding section 23 (3) and (6);
- (d) section 24 (appeal against improvement and prohibition notices)(9);
- (e) section 26 (power to indemnify inspectors);
- (f) section 28 (restrictions on disclosure of information)(10);
- (g) sections 33(1) (c), (e) to (h), (j) to (o), 34(2), 35, 36 (1) and (2), 37 to 41 and 42 (1) to (3) (provision as to offences)(11); and
- (h) section 46 (service of notices).

(4) The mode of trial and maximum penalty applicable to each offence under section 33 of the 1974 Act so applied and listed in the first column of the following table are set out opposite each offence in the subsequent columns of the table.

<i>Offence</i>	<i>Mode of trial</i>	<i>Penalty on summary conviction</i>	<i>Penalty on conviction on indictment</i>
An offence under section 33(1) (c), (e), (f), (g), (j), (k), (l), (m) or (o).	Summarily or on indictment.	Imprisonment for a term not exceeding 3 months, or a fine not exceeding level 5	Imprisonment for a term not exceeding two years, or a fine, or both.

(6) Section 20(7) was amended by the Civil Partnership Act 2004 (c.33), Schedule 27, paragraph 49.

(7) Section 22(1) and (2) were amended by, and section 22(4) was substituted by, the Consumer Protection Act 1987 (c.43), Schedule 3.

(8) Section 23(4) was amended for England and Wales by the Fire and Rescue Services Act 2004 (c.21), Schedule 1, paragraph 44, and by S.I. 2005/1541. Corresponding amendments were made for Scotland by S.S.I. 2005/383 and S.S.I. 2006/475.

(9) Section 24 (2) and (4) were amended by the Employment Rights (Dispute Resolution) Act 1998 (c. 8), section 1(2) (a).

(10) Section 28(4) was substituted by S.I. 2008/960. Section 28(5) was amended by S.I. 2004/3363. Section 28(9) was inserted by the Employment Protection Act 1975 (c.71), Schedule 15, paragraph 9. There are other amendments to section 28 not relevant to these Regulations.

(11) Section 33(1) (c) was amended by the Employment Protection Act 1975 (c.71), Schedule 15, paragraph 11, and Schedule 18. Section 33(1) (m) was amended by the Forgery and Counterfeiting Act 1981 (c.45), the Schedule, Part 1.

<i>Offence</i>	<i>Mode of trial</i>	<i>Penalty on summary conviction</i>	<i>Penalty on conviction on indictment</i>
		on the standard scale as it has effect from time to time (as if the offence was triable only summarily), or both.	
An offence under section 33(1) (h).	Summarily only.	Imprisonment for a term not exceeding 3 months, or a fine not exceeding level 5 on the standard scale as it has effect from time to time, or both.	
An offence under section 33(1) (n).	Summarily only.	A fine not exceeding level 5 on the standard scale as it has effect from time to time.	

(5) A failure to discharge a duty placed on the Office of Rail Regulation by these Regulations is not an offence under section 33(1) (c) of the 1974 Act.

Revocation and transitional provisions

7.—(1) The following instruments are revoked—

- (a) the Rail Vehicle Accessibility Regulations 1998⁽¹²⁾; and
- (b) the Rail Vehicle Accessibility (Amendment) Regulations 2000⁽¹³⁾.

(2) A reference in an exemption order to a provision of the Rail Vehicle Accessibility Regulations 1998 has effect as if it were a reference to the corresponding provision of Part 1 of Schedule 1 to these Regulations indicated in Schedule 5.

Signed by authority of the Secretary of State for Transport

23rd February 2010

C.D. Mole
Parliamentary Under Secretary of State
Department for Transport

⁽¹²⁾ S.I. 1998/2456.

⁽¹³⁾ S.I. 2000/3215.