



# Disability Discrimination Act 1995

## 1995 CHAPTER 50

VALID FROM 13/05/1998

### PART V

#### PUBLIC TRANSPORT

VALID FROM 30/08/2000

#### *Taxis*

#### **32 Taxi accessibility regulations.**

- (1) The Secretary of State may make regulations (“taxi accessibility regulations”) for the purpose of securing that it is possible—
  - (a) for disabled persons—
    - (i) to get into and out of taxis in safety;
    - (ii) to be carried in taxis in safety and in reasonable comfort; and
  - (b) for disabled persons in wheelchairs—
    - (i) to be conveyed in safety into and out of taxis while remaining in their wheelchairs; and
    - (ii) to be carried in taxis in safety and in reasonable comfort while remaining in their wheelchairs.
- (2) Taxi accessibility regulations may, in particular—
  - (a) require any regulated taxi to conform with provisions of the regulations as to—
    - (i) the size of any door opening which is for the use of passengers;
    - (ii) the floor area of the passenger compartment;
    - (iii) the amount of headroom in the passenger compartment;

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*Changes to legislation: There are currently no known outstanding effects for the Disability Discrimination Act 1995, Part V. (See end of Document for details)*

- (iv) the fitting of restraining devices designed to ensure the stability of a wheelchair while the taxi is moving;
- (b) require the driver of any regulated taxi which is plying for hire, or which has been hired, to comply with provisions of the regulations as to the carrying of ramps or other devices designed to facilitate the loading and unloading of wheelchairs;
- (c) require the driver of any regulated taxi in which a disabled person who is in a wheelchair is being carried (while remaining in his wheelchair) to comply with provisions of the regulations as to the position in which the wheelchair is to be secured.
- (3) The driver of a regulated taxi which is plying for hire, or which has been hired, is guilty of an offence if—
- (a) he fails to comply with any requirement imposed on him by the regulations; or
- (b) the taxi fails to conform with any provision of the regulations with which it is required to conform.
- (4) A person who is guilty of such an offence is liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.
- (5) In this section—
- “passenger compartment” has such meaning as may be prescribed;
- “regulated taxi” means any taxi to which the regulations are expressed to apply;
- [<sup>F1</sup>“taxi” means a taxi within the meaning of the Taxis Act (Northern Ireland) 2008 which is licensed under section 13 of that Act for use in standing or plying for hire or reward or to carry passengers for hire or reward.]

#### Extent Information

- E1** In its application to Northern Ireland, this section has effect subject to the modifications set out in Sch. 8; see s. 70(6)

#### Textual Amendments

- F1** S. 32(5): definition of "taxi" (as modified for N.I. by Sch. 8 para. 16(2) of this Act) substituted (N.I.) (prosp.) by Taxis Act (Northern Ireland) (2008 c. 4 (N.I)), ss. 58(1), 59, **Sch. 2 para. 3**

#### Marginal Citations

- M1** 1847 c.89.  
**M2** 1869 c.115.

### 33 Designated transport facilities.

- (1) In this section “a franchise agreement” means a contract entered into by the operator of a designated transport facility for the provision by the other party to the contract of hire car services—
- (a) for members of the public using any part of the transport facility; and
- (b) which involve vehicles entering any part of that facility.

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- (2) The [<sup>F2</sup>appropriate national authority] may by regulations provide for the application of any taxi provision in relation to—
- (a) vehicles used for the provision of services under a franchise agreement; or
  - (b) the drivers of such vehicles.

- (3) Any regulations under subsection (2) may apply any taxi provision with such modifications as the [<sup>F3</sup>authority making the regulations] considers appropriate.

- (4) In this section—

[<sup>F4</sup>appropriate national authority means—

- (a) in relation to transport facilities in England and Wales, the Secretary of State, and
- (b) in relation to transport facilities in Scotland, the Scottish Ministers (but see subsection (5));]

“designated” means designated for the purposes of this section by an order made by the [<sup>F2</sup>appropriate national authority];

“hire car” has such meaning as may be [<sup>F5</sup>specified by regulations made by the appropriate national authority];

“operator”, in relation to a transport facility, means any person who is concerned with the management or operation of the facility;

“taxi provision” means any provision of—

- (a) this Act, or
- (b) regulations made in pursuance of section 20(2A) of the <sup>M3</sup>Civic Government (Scotland) Act 1982,

which applies in relation to taxis or the drivers of taxis; and

“transport facility” means any premises which form part of any port, airport, railway station or bus station.

- [<sup>F6</sup>(5) The Secretary of State may, for the purposes mentioned in section 2(2) of the European Communities Act 1972 (implementation of Community obligations etc. of the United Kingdom), exercise the powers conferred by this section on the Scottish Ministers.]

#### Extent Information

- E2** In its application to Northern Ireland, this section has effect subject to the modifications set out in Sch. 8; see s. 70(6)

#### Textual Amendments

- F2** Words in s. 33(2)(4) substituted (E.W.S.) (5.12.2005) by [Disability Discrimination Act 2005 \(c. 13\)](#), ss. 19(1), 20(3)-(6), [Sch. 1 para. 26\(2\)](#); S.I. 2005/2774, [art. 3\(j\)](#)
- F3** Words in s. 33(3) substituted (E.W.S.) (5.12.2005) by [Disability Discrimination Act 2005 \(c. 13\)](#), ss. 19(1), 20(3)-(6), [Sch. 1 para. 26\(3\)](#); S.I. 2005/2774, [art. 3\(j\)](#)
- F4** S. 33(4): definition of "appropriate national authority" inserted (E.W.S.) (5.12.2005) by [Disability Discrimination Act 2005 \(c. 13\)](#), ss. 19(1), 20(3)-(6), [Sch. 1 para. 26\(4\)](#); S.I. 2005/2774, [art. 3\(j\)](#)
- F5** S. 33(4): words in definition of "prescribed" substituted (E.W.S.) (5.12.2005) by [Disability Discrimination Act 2005 \(c. 13\)](#), ss. 19(1), 20(3)-(6), [Sch. 1 para. 26\(5\)](#); S.I. 2005/2774, [art. 3\(j\)](#)

*Status: Point in time view as at 02/12/1996. This version of this part contains provisions that are not valid for this point in time.*

*Changes to legislation: There are currently no known outstanding effects for the Disability Discrimination Act 1995, Part V. (See end of Document for details)*

**F6** S. 33(5) inserted (E.W.S.) (5.12.2005) by Disability Discrimination Act 2005 (c. 13), ss. 19(1), 20(3)-(6), **Sch. 1 para. 26(6)**; S.I. 2005/2774, **art. 3(j)**

**Modifications etc. (not altering text)**

**C1** S. 33: transfer of certain functions (S.) (1.7.1999) by S.I. 1999/1750, **arts. 1, 2, Sch. 1** (with **art. 7**); S.I. 1998/3178, **art. 3**

**Marginal Citations**

**M3** 1982 c.45.

**33 Designated transport facilities. U.K.**

- (1) In this section “a franchise agreement” means a contract entered into by the operator of a designated transport facility for the provision by the other party to the contract of hire car services—
- (a) for members of the public using any part of the transport facility; and
  - (b) which involve vehicles entering any part of that facility.
- (2) The Secretary of State may by regulations provide for the application of any taxi provision in relation to—
- (a) vehicles used for the provision of services under a franchise agreement; or
  - (b) the drivers of such vehicles.
- (3) Any regulations under subsection (2) may apply any taxi provision with such modifications as the Secretary of State considers appropriate.
- (4) In this section—
- “designated” means designated for the purposes of this section by an order made by the Secretary of State;
- “hire car” has such meaning as may be prescribed;
- “operator”, in relation to a transport facility, means any person who is concerned with the management or operation of the facility;
- “taxi provision” means any provision of—
- (a) this Act, or
  - (b) regulations made in pursuance of section 20(2A) of the <sup>M3</sup>Civic Government (Scotland) Act 1982,
- which applies in relation to taxis or the drivers of taxis; and
- “transport facility” means any premises which form part of any port, airport, railway station or bus station.

**Extent Information**

**E2** In its application to Northern Ireland, this section has effect subject to the modifications set out in Sch. 8; see s. 70(6)

**Modifications etc. (not altering text)**

**C1** S. 33: transfer of certain functions (S.) (1.7.1999) by S.I. 1999/1750, **arts. 1, 2, Sch. 1** (with **art. 7**); S.I. 1998/3178, **art. 3**

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#### **Marginal Citations**

**M3** 1982 c.45.

### **34 New licences conditional on compliance with taxi accessibility regulations.**

- (1) No licensing authority shall grant a licence for a taxi to ply for hire unless the vehicle conforms with those provisions of the taxi accessibility regulations with which it will be required to conform if licensed.
- (2) Subsection (1) does not apply if such a licence was in force with respect to the vehicle at any time during the period of 28 days immediately before the day on which the licence is granted.
- (3) The Secretary of State may by order provide for subsection (2) to cease to have effect on such date as may be specified in the order.
- (4) Separate orders may be made under subsection (3) with respect to different areas or localities.

#### **Extent Information**

**E3** In its application to Northern Ireland, this section has effect as substituted by Sch. 8 para. 18; see s. 70(6)

### **35 Exemption from taxi accessibility regulations.**

- (1) The Secretary of State may make regulations (“exemption regulations”) for the purpose of enabling any relevant licensing authority to apply to him for an order (an “exemption order”) exempting the authority from the requirements of section 34.
- (2) Exemption regulations may, in particular, make provision requiring a licensing authority proposing to apply for an exemption order—
  - (a) to carry out such consultations as may be prescribed;
  - (b) to publish the proposal in the prescribed manner;
  - (c) to consider any representations made to it about the proposal, before applying for the order;
  - (d) to make its application in the prescribed form.
- (3) A licensing authority may apply for an exemption order only if it is satisfied—
  - (a) that, having regard to the circumstances prevailing in its area, it would be inappropriate for the requirements of section 34 to apply; and
  - (b) that the application of section 34 would result in an unacceptable reduction in the number of taxis in its area.
- (4) After considering any application for an exemption order and consulting the Disabled Persons Transport Advisory Committee and such other persons as he considers appropriate, the Secretary of State may—
  - (a) make an exemption order in the terms of the application;
  - (b) make an exemption order in such other terms as he considers appropriate; or
  - (c) refuse to make an exemption order.

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(5) The Secretary of State may by regulations (“swivel seat regulations”) make provision requiring any exempt taxi plying for hire in an area in respect of which an exemption order is in force to conform with provisions of the regulations as to the fitting and use of swivel seats.

(6) The Secretary of State may by regulations make provision with respect to swivel seat regulations similar to that made by section 34 with respect to taxi accessibility regulations.

(7) In this section—

“exempt taxi” means a taxi in relation to which section 34(1) would apply if the exemption order were not in force;

“relevant licensing authority” means a licensing authority responsible for licensing taxis in any area of England and Wales other than the area to which the <sup>M4</sup>Metropolitan Public Carriage Act 1869 applies; and

“swivel seats” has such meaning as may be prescribed.

#### Extent Information

**E4** In its application to Northern Ireland, this section has effect subject to the modifications set out in Sch. 8; see s. 70(6)

#### Marginal Citations

**M4** 1869 c.115.

### 36 Carrying of passengers in wheelchairs.

(1) This section imposes duties on the driver of a regulated taxi which has been hired—

- (a) by or for a disabled person who is in a wheelchair; or
- (b) by a person who wishes such a disabled person to accompany him in the taxi.

(2) In this section—

“carry” means carry in the taxi concerned; and

“the passenger” means the disabled person concerned.

(3) The duties are—

- (a) to carry the passenger while he remains in his wheelchair;
- (b) not to make any additional charge for doing so;
- (c) if the passenger chooses to sit in a passenger seat, to carry the wheelchair;
- (d) to take such steps as are necessary to ensure that the passenger is carried in safety and in reasonable comfort;
- (e) to give such assistance as may be reasonably required—
  - (i) to enable the passenger to get into or out of the taxi;
  - (ii) if the passenger wishes to remain in his wheelchair, to enable him to be conveyed into and out of the taxi while in his wheelchair;
  - (iii) to load the passenger’s luggage into or out of the taxi;
  - (iv) if the passenger does not wish to remain in his wheelchair, to load the wheelchair into or out of the taxi.

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- (4) Nothing in this section is to be taken to require the driver of any taxi—
- (a) except in the case of a taxi of a prescribed description, to carry more than one person in a wheelchair, or more than one wheelchair, on any one journey; or
  - (b) to carry any person in circumstances in which it would otherwise be lawful for him to refuse to carry that person.
- (5) A driver of a regulated taxi who fails to comply with any duty imposed on him by this section is guilty of an offence and liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.
- (6) In any proceedings for an offence under this section, it is a defence for the accused to show that, even though at the time of the alleged offence the taxi conformed with those provisions of the taxi accessibility regulations with which it was required to conform, it would not have been possible for the wheelchair in question to be carried in safety in the taxi.
- (7) If the licensing authority is satisfied that it is appropriate to exempt a person from the duties imposed by this section—
- (a) on medical grounds, or
  - (b) on the ground that his physical condition makes it impossible or unreasonably difficult for him to comply with the duties imposed on drivers by this section,
- it shall issue him with a certificate of exemption.
- (8) A certificate of exemption shall be issued for such period as may be specified in the certificate.
- (9) The driver of a regulated taxi is exempt from the duties imposed by this section if—
- (a) a certificate of exemption issued to him under this section is in force; and
  - (b) the prescribed notice of his exemption is exhibited on the taxi in the prescribed manner.

#### **Extent Information**

**E5** Following the repeal of this Act for E.W.S. by the Equality Act 2010, this section now extends to Northern Ireland only and also has effect subject to the modification for Northern Ireland set out in Sch. 8 para. 20; see [s. 70\(6\)](#).

VALID FROM 27/01/2009

#### **[F7] 36A List of wheelchair-accessible vehicles providing local services**

- (1) A licensing authority may maintain a list of vehicles falling within subsection (2).
- (2) A vehicle falls within this subsection if—
- (a) it is either a taxi or a private hire vehicle,
  - (b) it is being used or is to be used by the holder of a special licence under that licence, and



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- (c) it conforms to such accessibility requirements as the licensing authority thinks fit.
- (3) “Accessibility requirements” are any requirements for the purpose of securing that it is possible for disabled persons in wheelchairs—
- (a) to get into and out of vehicles in safety, or to be conveyed in safety into and out of vehicles while remaining in their wheelchairs; and
  - (b) to be carried in vehicles in safety and reasonable comfort (whether or not they wish to remain in their wheelchairs).
- (4) The Secretary of State may issue guidance to licensing authorities as to—
- (a) the accessibility requirements which they should apply for the purposes of this section;
  - (b) any other aspect of their functions under or by virtue of this section.
- (5) A licensing authority which maintains a list under subsection (1) must have regard to any guidance issued under subsection (4).
- (6) In this section—
- “licensing authority”, in relation to any area, means the authority responsible for licensing taxis or, as the case may be, private hire vehicles in that area;
- “private hire vehicle” means—
- (a) a vehicle licensed under section 48 of the Local Government (Miscellaneous Provisions) Act 1976;
  - (b) a vehicle licensed under section 7 of the Private Hire Vehicles (London) Act 1998;
  - (c) a vehicle licensed under an equivalent provision of a local enactment;
  - (d) a private hire car licensed under section 10 of the Civic Government (Scotland) Act 1982;
- “special licence” has the meaning given by section 12 of the Transport Act 1985 (use of taxis in providing local services);
- “taxi” includes a taxi licensed under section 10 of the Civic Government (Scotland) Act 1982.]

#### Textual Amendments

F7 S. 36A inserted (E.W.S.) (27.1.2009) by [Local Transport Act 2008 \(c. 26\)](#), ss. 56(2)(9), 134(2)

#### Modifications etc. (not altering text)

C2 S. 36A modified (27.11.2009) by [The Local Services \(Operation by Licensed Hire Cars\) Regulations 2009 \(S.I. 2009/2863\)](#), regs. {3}, {4 Table}

VALID FROM 01/12/2000

### 37 Carrying of guide dogs and hearing dogs.

- (1) This section imposes duties on the driver of a taxi which has been hired—



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- (a) by or for a disabled person who is accompanied by his guide dog or hearing dog, or
  - (b) by a person who wishes such a disabled person to accompany him in the taxi.
- (2) The disabled person is referred to in this section as “the passenger”.
- (3) The duties are—
- (a) to carry the passenger’s dog and allow it to remain with the passenger; and
  - (b) not to make any additional charge for doing so.
- (4) A driver of a taxi who fails to comply with any duty imposed on him by this section is guilty of an offence and liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.
- (5) If the licensing authority is satisfied that it is appropriate on medical grounds to exempt a person from the duties imposed by this section, it shall issue him with a certificate of exemption.
- (6) In determining whether to issue a certificate of exemption, the licensing authority shall, in particular, have regard to the physical characteristics of the taxi which the applicant drives or those of any kind of taxi in relation to which he requires the certificate.
- (7) A certificate of exemption shall be issued—
- (a) with respect to a specified taxi or a specified kind of taxi; and
  - (b) for such period as may be specified in the certificate.
- (8) The driver of a taxi is exempt from the duties imposed by this section if—
- (a) a certificate of exemption issued to him under this section is in force with respect to the taxi; and
  - (b) the prescribed notice of his exemption is exhibited on the taxi in the prescribed manner.
- (9) The Secretary of State may, for the purposes of this section, prescribe any other category of dog trained to assist a disabled person who has a disability of a prescribed kind.
- (10) This section applies in relation to any such prescribed category of dog as it applies in relation to guide dogs.
- (11) In this section—
- “guide dog” means a dog which has been trained to guide a blind person; and
  - “hearing dog” means a dog which has been trained to assist a deaf person.

#### Extent Information

- E6** In its application to Northern Ireland, this section has effect subject to the modifications set out in Sch. 8 para. 21; see [s. 70\(6\)](#)

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### Commencement Information

- II** S. 37 not in force at Royal Assent see s. 70(3)(6), Sch. 8 para. 48(1); s. 37 in force for E.W. at 1.12.2000 for specified purposes and at 31.3.2001 for all other purposes by S.I. 2000/2989, art. 2(a)(b); s. 37 in force for N.I. at 1.6.2001 for specified purposes and at 1.8.2001 for all other purposes by S.R. 2001/163, art. 2(1)

VALID FROM 31/12/2003

### [<sup>F8</sup>37A Carrying of assistance dogs in private hire vehicles

- (1) It is an offence for the operator of a private hire vehicle to fail or refuse to accept a booking for a private hire vehicle—
  - (a) if the booking is requested by or on behalf of a disabled person, or a person who wishes a disabled person to accompany him; and
  - (b) the reason for the failure or refusal is that the disabled person will be accompanied by his assistance dog.
- (2) It is an offence for the operator of a private hire vehicle to make an additional charge for carrying an assistance dog which is accompanying a disabled person.
- (3) It is an offence for the driver of a private hire vehicle to fail or refuse to carry out a booking accepted by the operator of the vehicle—
  - (a) if the booking was made by or on behalf of a disabled person, or a person who wishes a disabled person to accompany him; and
  - (b) the reason for the failure or refusal is that the disabled person is accompanied by his assistance dog.
- (4) A person who is guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (5) If the licensing authority is satisfied that it is appropriate on medical grounds to issue a certificate of exemption to a driver in respect of subsection (3) it must do so.
- (6) In determining whether to issue a certificate of exemption, the licensing authority shall, in particular, have regard to the physical characteristics of the private hire vehicle which the applicant drives or those of any kind of private hire vehicle in relation to which he requires the certificate.
- (7) A certificate of exemption shall be issued—
  - (a) with respect to a specified private hire vehicle or a specified kind of private hire vehicle; and
  - (b) for such period as may be specified in the certificate.
- (8) No offence is committed by a driver under subsection (3) if—
  - (a) a certificate of exemption issued to him under this section is in force with respect to the private hire vehicle; and
  - (b) the prescribed notice is exhibited on the private hire vehicle in the prescribed manner.
- (9) In this section—
 

“assistance dog” means a dog which—

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- (a) has been trained to guide a blind person;
  - (b) has been trained to assist a deaf person;
  - (c) has been trained by a prescribed charity to assist a disabled person who has a disability which—
    - (i) consists of epilepsy; or
    - (ii) otherwise affects his mobility, manual dexterity, physical co-ordination or ability to lift, carry or otherwise move everyday objects;
- “driver” means a person who holds a licence granted under—
- (a) section 13 of the Private Hire Vehicles (London) Act 1998 (c. 34) (“the 1998 Act”);
  - (b) section 51 of the Local Government (Miscellaneous Provisions) Act 1976 (c. 57) (“the 1976 Act”); or
  - (c) an equivalent provision of a local enactment;
- “licensing authority”, in relation to any area of England and Wales, means the authority responsible for licensing private hire vehicles in that area;
- “operator” means a person who holds a licence granted under—
- (a) section 3 of the 1998 Act;
  - (b) section 55 of the 1976 Act; or
  - (c) an equivalent provision of a local enactment;
- “private hire vehicle” means a vehicle licensed under—
- (a) section 6 of the 1998 Act;
  - (b) section 48 of the 1976 Act; or
  - (c) an equivalent provision of a local enactment.]

#### Extent Information

- E7** In its application to Northern Ireland, this section has effect subject to the modifications set out in Sch. 8; see [s. 70\(6\)](#)

#### Textual Amendments

- F8** [S. 37A](#) inserted (31.12.2003 for certain purposes and otherwise 31.3.2004 as respects private hire vehicles licensed in England and Wales, 1.1.2008 for certain purposes and otherwise 1.6.2008 as respects a private hire vehicle licensed by the Department of the Environment in Northern Ireland) by [Private Hire Vehicles \(Carriage of Guide Dogs etc.\) Act 2002 \(c. 37\)](#), ss. 1(1), 6(2); S.I. 2003/3123, [art. 2](#); S.I. 2007/3477, [art. 2](#)

#### Modifications etc. (not altering text)

- C3** [S. 37A](#) modified (E.W.S.) (27.11.2009) by [The Local Services \(Operation by Licensed Hire Cars\) Regulations 2009 \(S.I. 2009/2863\)](#), regs. {3}, {4 Table}

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VALID FROM 01/12/2000

### 38 Appeal against refusal of exemption certificate.

- (1) Any person who is aggrieved by the refusal of a licensing authority to issue an exemption certificate under section 36 or 37 may appeal to the appropriate court before the end of the period of 28 days beginning with the date of the refusal.
- (2) On an appeal to it under this section, the court may direct the licensing authority concerned to issue the appropriate certificate of exemption to have effect for such period as may be specified in the direction.
- (3) “Appropriate court” means the magistrates’ court for the petty sessions area in which the licensing authority has its principal office.

#### Extent Information

**E8** In its application to Northern Ireland, this section has effect subject to the modifications set out in Sch. 8; see s. 70(6)

#### Commencement Information

**I2** S. 38 partly in force; s. 38 not in force at Royal Assent see s. 70(3)(6), Sch. 8 para. 48(1); s. 38 in force for E.W. at 1.12.2000 by S.I. 2000/2989, art. 3; s. 38 in force for N.I. at 1.6.2001 by S.R. 2001/163, art. 2(2)

VALID FROM 05/02/2003

### 39 Requirements as to disabled passengers in Scotland.

- (1) Part II of the <sup>M5</sup>Civic Government (Scotland) Act 1982 (licensing and regulation) is amended as follows.
- (2) In subsection (4) of section 10 (suitability of vehicle for use as taxi)—
  - (a) after “authority” insert “ — (a) ”; and
  - (b) at the end add “; and
    - (b) as not being so suitable if it does not so comply.”
- (3) In section 20 (regulations relating to taxis etc.) after subsection (2) insert—
 

“(2A) Without prejudice to the generality of subsections (1) and (2) above, regulations under those subsections may make such provision as appears to the Secretary of State to be necessary or expedient in relation to the carrying in taxis of disabled persons (within the meaning of section 1(2) of the <sup>M6</sup>Disability Discrimination Act 1995) and such provision may in particular prescribe—

  - (a) requirements as to the carriage of wheelchairs, guide dogs, hearing dogs and other categories of dog;
  - (b) a date from which any such provision is to apply and the extent to which it is to apply; and

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(c) the circumstances in which an exemption from such provision may be granted in respect of any taxi or taxi driver,  
and in this subsection—

“guide dog” means a dog which has been trained to guide a blind person;

“hearing dog” means a dog which has been trained to assist a deaf person; and

“other categories of dog” means such other categories of dog as the Secretary of State may prescribe, trained to assist disabled persons who have disabilities of such kinds as he may prescribe.”

#### Extent Information

**E9** In its application to Northern Ireland, this section has effect subject to the modifications set out in Sch. 8; see s. 70(6)

#### Commencement Information

**I3** S. 39 not in force at Royal Assent, see s. 70(3); s. 39 in force at 5.2.2003 in relation to Scotland by S.I. 2003/215, art. 2

#### Marginal Citations

**M5** 1982 c. 45.

**M6** 1995 c.50.

VALID FROM 30/08/2000

### *Public service vehicles*

#### **40 PSV accessibility regulations.**

(1) The Secretary of State may make regulations (“PSV accessibility regulations”) for the purpose of securing that it is possible for disabled persons—

- (a) to get on to and off regulated public service vehicles in safety and without unreasonable difficulty (and, in the case of disabled persons in wheelchairs, to do so while remaining in their wheelchairs); and
- (b) to be carried in such vehicles in safety and in reasonable comfort.

(2) PSV accessibility regulations may, in particular, make provision as to the construction, use and maintenance of regulated public service vehicles including provision as to—

- (a) the fitting of equipment to vehicles;
- (b) equipment to be carried by vehicles;
- (c) the design of equipment to be fitted to, or carried by, vehicles;
- (d) the fitting and use of restraining devices designed to ensure the stability of wheelchairs while vehicles are moving;
- (e) the position in which wheelchairs are to be secured while vehicles are moving.

*Status: Point in time view as at 02/12/1996. This version of this part contains provisions that are not valid for this point in time.*

*Changes to legislation: There are currently no known outstanding effects for the Disability Discrimination Act 1995, Part V. (See end of Document for details)*

- (3) Any person who—
- (a) contravenes or fails to comply with any provision of the PSV accessibility regulations,
  - (b) uses on a road a regulated public service vehicle which does not conform with any provision of the regulations with which it is required to conform, or
  - (c) causes or permits to be used on a road such a regulated public service vehicle,
- is guilty of an offence.
- (4) A person who is guilty of such an offence is liable, on summary conviction, to a fine not exceeding level 4 on the standard scale.
- (5) In this section—
- “public service vehicle” means a vehicle which is—
- (a) adapted to carry more than eight passengers; and
  - (b) a public service vehicle for the purposes of the <sup>M7</sup>Public Passenger Vehicles Act 1981;
- “regulated public service vehicle” means any public service vehicle to which the PSV accessibility regulations are expressed to apply.
- (6) Different provision may be made in regulations under this section—
- (a) as respects different classes or descriptions of vehicle;
  - (b) as respects the same class or description of vehicle in different circumstances.
- (7) Before making any regulations under this section or section 41 or 42 the Secretary of State shall consult the Disabled Persons Transport Advisory Committee and such other representative organisations as he thinks fit.

#### **Extent Information**

**E10** In its application to Northern Ireland, this section has effect subject to the modifications set out in Sch. 8; see [s. 70\(6\)](#)

#### **Commencement Information**

**I4** [S. 40](#) fully in force at 21.1.2003; [s. 40](#) not in force at Royal Assent see [s. 70\(3\)\(6\)](#), [Sch. 8 para. 48\(1\)](#); [s. 40](#) in force for E.W.S. at 30.8.2000 by [S.I. 2000/1969, art. 2](#); [s. 40](#) in force for N.I. at 21.1.2003 by [S.R. 2003/24, art. 2](#)

#### **Marginal Citations**

**M7** [1981 c.14.](#)

## **41 Accessibility certificates.**

- (1) A regulated public service vehicle shall not be used on a road unless—
- (a) a vehicle examiner has issued a certificate (an “accessibility certificate”) that such provisions of the PSV accessibility regulations as may be prescribed are satisfied in respect of the vehicle; or

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- (b) an approval certificate has been issued under section 42 in respect of the vehicle.
- (2) The Secretary of State may make regulations—
- (a) with respect to applications for, and the issue of, accessibility certificates;
  - (b) providing for the examination of vehicles in respect of which applications have been made;
  - (c) with respect to the issue of copies of accessibility certificates in place of certificates which have been lost or destroyed.
- (3) If a regulated public service vehicle is used in contravention of this section, the operator of the vehicle is guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (4) In this section “operator” has the same meaning as in the <sup>M8</sup>Public Passenger Vehicles Act 1981.

#### Extent Information

**E11** In its application to Northern Ireland, this section has effect subject to the modifications set out in Sch. 8; see [s. 70\(6\)](#)

#### Commencement Information

**I5** [S. 41](#) fully in force at 21.1.2003; [s. 41](#) not in force at Royal Assent see [s. 70\(3\)\(6\)](#), [Sch. 8 para. 48\(1\)](#); [s. 41](#) in force for E.W.S. at 30.8.2000 by [S.I. 2000/1969](#), [art. 2](#); [s. 41](#) in force for N.I. at 21.1.2003 by [S.R. 2003/24](#), [art. 2](#)

#### Marginal Citations

**M8** [1981 c.14](#).

## 42 Approval certificates.

- (1) Where the Secretary of State is satisfied that such provisions of the PSV accessibility regulations as may be prescribed for the purposes of section 41 are satisfied in respect of a particular vehicle he may approve the vehicle for the purposes of this section.
- (2) A vehicle which has been so approved is referred to in this section as a “type vehicle”.
- (3) Subsection (4) applies where a declaration in the prescribed form has been made by an authorised person that a particular vehicle conforms in design, construction and equipment with a type vehicle.
- (4) A vehicle examiner may, after examining (if he thinks fit) the vehicle to which the declaration applies, issue a certificate in the prescribed form (“an approval certificate”) that it conforms to the type vehicle.
- (5) The Secretary of State may make regulations—
- (a) with respect to applications for, and grants of, approval under subsection (1);
  - (b) with respect to applications for, and the issue of, approval certificates;



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- (c) providing for the examination of vehicles in respect of which applications have been made;
  - (d) with respect to the issue of copies of approval certificates in place of certificates which have been lost or destroyed.
- (6) The Secretary of State may at any time withdraw his approval of a type vehicle.
- (7) Where an approval is withdrawn—
- (a) no further approval certificates shall be issued by reference to the type vehicle; but
  - (b) any approval certificate issued by reference to the type vehicle before the withdrawal shall continue to have effect for the purposes of section 41.
- (8) In subsection (3) “authorised person” means a person authorised by the Secretary of State for the purposes of that subsection.

#### Extent Information

**E12** In its application to Northern Ireland, this section has effect subject to the modifications set out in Sch. 8; see [s. 70\(6\)](#)

#### Commencement Information

**I6** [S. 42](#) fully in force at 21.1.2003; [s. 42](#) not in force at Royal Assent see [s. 70\(3\)\(6\)](#), [Sch. 8 para. 48\(1\)](#); [s. 42](#) in force for E.W.S. at 30.8.2000 by [S.I. 2000/1969, art. 2](#); [s. 42](#) in force for N.I. at 21.1.2003 by [S.R. 3003/24, art. 2](#)

### 43 Special authorisations.

- (1) The Secretary of State may by order authorise the use on roads of—
- (a) any regulated public service vehicle of a class or description specified by the order, or
  - (b) any regulated public service vehicle which is so specified,
- and nothing in section 40, 41 or 42 prevents the use of any vehicle in accordance with the order.
- (2) Any such authorisation may be given subject to such restrictions and conditions as may be specified by or under the order.
- (3) The Secretary of State may by order make provision for the purpose of securing that, subject to such restrictions and conditions as may be specified by or under the order, provisions of the PSV accessibility regulations apply to regulated public service vehicles of a description specified by the order subject to such modifications or exceptions as may be specified by the order.

#### Extent Information

**E13** In its application to Northern Ireland, this section has effect subject to the modifications set out in Sch. 8 para. 27; see [s. 70\(6\)](#)

*Status: Point in time view as at 02/12/1996. This version of this part contains provisions that are not valid for this point in time.*

*Changes to legislation: There are currently no known outstanding effects for the Disability Discrimination Act 1995, Part V. (See end of Document for details)*

#### **Commencement Information**

- 17** [S. 43](#) fully in force at 21.1.2003; [s. 43](#) not in force at Royal Assent see [s. 70\(3\)\(6\)](#), [Sch. 8 para. 48\(1\)](#); [s. 43](#) in force for E.W.S. at 30.8.2000 by [S.I. 2000/1969](#), [art. 2](#); [s. 43](#) in force for N.I. at 21.1.2003 by [S.R. 3003/24](#), [art. 2](#)

#### **44 Reviews and appeals.**

- (1) Subsection (2) applies where—
- (a) the Secretary of State refuses an application for the approval of a vehicle under section 42(1); and
  - (b) before the end of the prescribed period, the applicant asks the Secretary of State to review the decision and pays any fee fixed under section 45.
- (2) The Secretary of State shall—
- (a) review the decision; and
  - (b) in doing so, consider any representations made to him in writing, before the end of the prescribed period, by the applicant.
- (3) A person applying for an accessibility certificate or an approval certificate may appeal to the Secretary of State against the refusal of a vehicle examiner to issue such a certificate.
- (4) An appeal must be made within the prescribed time and in the prescribed manner.
- (5) Regulations may make provision as to the procedure to be followed in connection with appeals.
- (6) On the determination of an appeal, the Secretary of State may—
- (a) confirm, vary or reverse the decision appealed against;
  - (b) give such directions as he thinks fit to the vehicle examiner for giving effect to his decision.

#### **Extent Information**

- E14** In its application to Northern Ireland, this section has effect subject to the modifications set out in [Sch. 8](#); see [s. 70\(6\)](#)

#### **Commencement Information**

- 18** [S. 44](#) fully in force at 21.1.2003; [s. 44](#) not in force at Royal Assent see [s. 70\(3\)\(6\)](#), [Sch. 8 para. 48\(1\)](#); [s. 44](#) in force for E.W.S. at 30.8.2000 by [S.I. 2000/1969](#), [art. 2](#); [s. 44](#) in force for N.I. at 21.1.2003 by [S.R. 3003/24](#), [art. 2](#)

#### **45 Fees.**

- (1) Such fees, payable at such times, as may be prescribed may be charged by the Secretary of State in respect of—
- (a) applications for, and grants of, approval under section 42(1);
  - (b) applications for, and the issue of, accessibility certificates and approval certificates;
  - (c) copies of such certificates;

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(d) reviews and appeals under section 44.

- (2) Any such fees received by the Secretary of State shall be paid by him into the Consolidated Fund.
- (3) Regulations under subsection (1) may make provision for the repayment of fees, in whole or in part, in such circumstances as may be prescribed.
- (4) Before making any regulations under subsection (1) the Secretary of State shall consult such representative organisations as he thinks fit.

#### Extent Information

**E15** In its application to Northern Ireland, this section has effect subject to the modifications set out in Sch. 8; see [s. 70\(6\)](#)

#### Commencement Information

**I9** [S. 45](#) fully in force at 21.1.2003; [s. 45](#) not in force at Royal Assent see [s. 70\(3\)\(6\)](#), [Sch. 8 para. 48\(1\)](#); [s. 45](#) in force for E.W.S. at 30.8.2000 by [S.I. 2000/1969](#), [art. 2](#); [s. 45](#) in force for N.I. at 21.1.2003 by [S.R. 3003/24](#), [art. 2](#)

### *Rail vehicles*

#### **46 Rail vehicle accessibility regulations.**

- (1) The Secretary of State may make regulations (“rail vehicle accessibility regulations”) for the purpose of securing that it is possible—
- (a) for disabled persons—
    - (i) to get on to and off regulated rail vehicles in safety and without unreasonable difficulty;
    - (ii) to be carried in such vehicles in safety and in reasonable comfort; and
  - (b) for disabled persons in wheelchairs—
    - (i) to get on to and off such vehicles in safety and without unreasonable difficulty while remaining in their wheelchairs, and
    - (ii) to be carried in such vehicles in safety and in reasonable comfort while remaining in their wheelchairs.
- (2) Rail vehicle accessibility regulations may, in particular, make provision as to the construction, use and maintenance of regulated rail vehicles including provision as to—
- (a) the fitting of equipment to vehicles;
  - (b) equipment to be carried by vehicles;
  - (c) the design of equipment to be fitted to, or carried by, vehicles;
  - (d) the use of equipment fitted to, or carried by, vehicles;
  - (e) the toilet facilities to be provided in vehicles;
  - (f) the location and floor area of the wheelchair accommodation to be provided in vehicles;
  - (g) assistance to be given to disabled persons.

**Status:** Point in time view as at 02/12/1996. This version of this part contains provisions that are not valid for this point in time.

**Changes to legislation:** There are currently no known outstanding effects for the Disability Discrimination Act 1995, Part V. (See end of Document for details)

- (3) If a regulated rail vehicle which does not conform with any provision of the rail vehicle accessibility regulations with which it is required to conform is used for carriage, the operator of the vehicle is guilty of an offence.
- (4) A person who is guilty of such an offence is liable, on summary conviction, to a fine not exceeding level 4 on the standard scale.
- (5) Different provision may be made in rail vehicle accessibility regulations—
- (a) as respects different classes or descriptions of rail vehicle;
  - (b) as respects the same class or description of rail vehicle in different circumstances;
  - (c) as respects different networks.
- (6) In this section—
- “network” means any permanent way or other means of guiding or supporting rail vehicles or any section of it;
- “operator”, in relation to any rail vehicle, means the person having the management of that vehicle;
- “rail vehicle” means a vehicle—
- (a) constructed or adapted to carry passengers on any railway, tramway or prescribed system; and
  - (b) first brought into use, or belonging to a class of vehicle first brought into use, after 31st December 1998;
- “regulated rail vehicle” means any rail vehicle to which the rail vehicle accessibility regulations are expressed to apply; and
- “wheelchair accommodation” has such meaning as may be prescribed.
- (7) In subsection (6)—
- “prescribed system” means a system using a prescribed mode of guided transport “guided transport” having the same meaning as in the <sup>M9</sup>Transport and Works Act 1992); and
- “railway” and “tramway” have the same meaning as in that Act.
- (8) The Secretary of State may by regulations make provision as to the time when a rail vehicle, or a class of rail vehicle, is to be treated, for the purposes of this section, as first brought into use.
- (9) Regulations under subsection (8) may include provision for disregarding periods of testing and other prescribed periods of use.
- (10) For the purposes of this section and section 47, a person uses a vehicle for carriage if he uses it for the carriage of members of the public for hire or reward at separate fares.
- (11) Before making any regulations under subsection (1) or section 47 the Secretary of State shall consult the Disabled Persons Transport Advisory Committee and such other representative organisations as he thinks fit.

#### Extent Information

**E16** In its application to Northern Ireland, this section has effect subject to the modifications set out in Sch. 8; see s. 70(6)

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*Changes to legislation: There are currently no known outstanding effects for the Disability Discrimination Act 1995, Part V. (See end of Document for details)*

#### **Modifications etc. (not altering text)**

**C4** [S. 46](#): transfer of certain functions (N.I.) (1.12.1999) by [S.R. 1999/481](#), [art. 6\(d\)](#), [Sch. 4 Pt. IV](#)

#### **Marginal Citations**

**M9** [1992 c.42](#).

### **47 Exemption from rail vehicle accessibility regulations.**

- (1) The Secretary of State may by order (an “exemption order”) authorise the use for carriage of any regulated rail vehicle of a specified description, or in specified circumstances, even though that vehicle does not conform with the provisions of the rail vehicle accessibility regulations with which it is required to conform.
- (2) Regulations may make provision with respect to exemption orders including, in particular, provision as to—
  - (a) the persons by whom applications for exemption orders may be made;
  - (b) the form in which such applications are to be made;
  - (c) information to be supplied in connection with such applications;
  - (d) the period for which exemption orders are to continue in force;
  - (e) the revocation of exemption orders.
- (3) After considering any application for an exemption order and consulting the Disabled Persons Transport Advisory Committee and such other persons as he considers appropriate, the Secretary of State may—
  - (a) make an exemption order in the terms of the application;
  - (b) make an exemption order in such other terms as he considers appropriate;
  - (c) refuse to make an exemption order.
- (4) An exemption order may be made subject to such restrictions and conditions as may be specified.
- (5) In this section “specified” means specified in an exemption order.

#### **Extent Information**

**E17** In its application to Northern Ireland, this section has effect subject to the modifications set out in [Sch. 8](#); see [s. 70\(6\)](#)

#### **Modifications etc. (not altering text)**

**C5** [S. 47](#): transfer of certain functions (N.I.) (1.12.1999) by [S.R. 1999/481](#), [art. 6\(d\)](#), [Sch. 4 Pt. IV](#)

### **47A Rail vehicle accessibility compliance certificates**

- (1) A regulated rail vehicle to which this subsection applies shall not be used for carriage unless a rail vehicle accessibility compliance certificate is in force for the vehicle.
- (2) Subsection (1) applies to a regulated rail vehicle if the vehicle—
  - (a) is prescribed; or
  - (b) is of a prescribed class or description.

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*Changes to legislation:* There are currently no known outstanding effects for the Disability Discrimination Act 1995, Part V. (See end of Document for details)

- (3) A rail vehicle accessibility compliance certificate is a certificate that the Secretary of State is satisfied that the regulated rail vehicle conforms with those provisions of rail vehicle accessibility regulations with which the vehicle is required to conform.
- (4) A rail vehicle accessibility compliance certificate may provide that it is subject to conditions specified in the certificate.
- (5) Subsection (6) applies where—
  - (a) the Secretary of State refuses an application for the issue of a rail vehicle accessibility compliance certificate for a regulated rail vehicle; and
  - (b) before the end of the prescribed period, the applicant asks the Secretary of State to review the decision and pays any fee fixed under section 47C.
- (6) The Secretary of State shall—
  - (a) review the decision; and
  - (b) in doing so, consider any representations made to him in writing, before the end of the prescribed period, by the applicant.

#### **47B Rail vehicle accessibility compliance certificates: supplementary**

- (1) Regulations may make provision with respect to rail vehicle accessibility compliance certificates.
- (2) The provision that may be made under subsection (1) includes (in particular)—
  - (a) provision for certificates to be issued on application;
  - (b) provision specifying conditions to which certificates are subject;
  - (c) provision as to the period for which certificates are to continue in force or as to circumstances in which certificates are to cease to be in force;
  - (d) provision (other than provision of a kind mentioned in paragraph (c)) dealing with failure to comply with a condition to which a certificate is subject;
  - (e) provision for the withdrawal of certificates issued in error;
  - (f) provision for the correction of errors in certificates;
  - (g) provision with respect to the issue of copies of certificates in place of certificates which have been lost or destroyed;
  - (h) provision for the examination of a rail vehicle before a certificate is issued in respect of it.
- (3) In making provision of the kind mentioned in subsection (2)(a), regulations under subsection (1) may (in particular)—
  - (a) make provision as to the persons by whom applications may be made;
  - (b) make provision as to the form in which applications are to be made;
  - (c) make provision as to information to be supplied in connection with an application, including (in particular) provision requiring the supply of a report of a compliance assessment.
- (4) For the purposes of this section, a “compliance assessment” is an assessment of a rail vehicle against provisions of rail vehicle accessibility regulations with which the vehicle is required to conform.
- (5) In requiring a report of a compliance assessment to be supplied in connection with an application, regulations under subsection (1) may make provision as to the person who has to have carried out the assessment, and may (in particular) require that the

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assessment be one carried out by a person who has been appointed by the Secretary of State to carry out compliance assessments (an “appointed assessor”).

(6) For the purposes of any provisions in regulations under subsection (1) with respect to the supply of reports of compliance assessments carried out by appointed assessors, regulations under that subsection—

(a) may make provision about appointments of appointed assessors, including (in particular)—

(i) provision for an appointment to be on application or otherwise than on application;

(ii) provision as to who may be appointed;

(iii) provision as to the form of applications for appointment;

(iv) provision as to information to be supplied with applications for appointment;

(v) provision as to terms and conditions, or the period or termination, of an appointment; and

(vi) provision for terms and conditions of an appointment, including any as to its period or termination, to be as agreed by the Secretary of State when making the appointment;

(b) may make provision authorising an appointed assessor to charge fees in connection with, or incidental to, its carrying-out of a compliance assessment, including (in particular)—

(i) provision restricting the amount of a fee;

(ii) provision authorising fees that contain a profit element; and

(iii) provision for advance payment of fees;

(c) may make provision requiring an appointed assessor to carry out a compliance assessment, and to do so in accordance with any procedures that may be prescribed, if prescribed conditions, which may include conditions as to the payment of fees to the assessor, are satisfied;

(d) shall make provision for the referral to the Secretary of State of disputes between—

(i) an appointed assessor carrying out a compliance assessment, and

(ii) the person who requested the assessment,

relating to which provisions of rail vehicle accessibility regulations the vehicle is to be assessed against or to what amounts to conformity with any of those provisions.

(7) In subsection (6)(b) to (d) “compliance assessment” includes pre-assessment activities (for example, a consideration of how the outcome of a compliance assessment would be affected by the carrying-out of particular proposed work).

#### **47C Rail vehicle accessibility compliance certificates: fees**

(1) Such fees, payable at such times, as may be prescribed may be charged by the Secretary of State in respect of—

(a) applications for, and the issue of, rail vehicle accessibility compliance certificates;

(b) copies of such certificates;

(c) reviews under section 47A;



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- (d) referrals of disputes under provision that, in accordance with section 47B(6) (d), is contained in regulations under section 47B(1).
- (2) Any such fees received by the Secretary of State shall be paid by him into the Consolidated Fund.
- (3) Regulations under subsection (1) may make provision for the repayment of fees, in whole or in part, in such circumstances as may be prescribed.
- (4) Before making any regulations under subsection (1) the Secretary of State shall consult such representative organisations as he thinks fit.

#### **47D Penalty for using rail vehicle without accessibility compliance certificate**

If a regulated rail vehicle to which section 47A(1) applies is used for carriage at a time when no rail vehicle accessibility compliance certificate is in force for the vehicle, the Secretary of State may require the operator of the vehicle to pay a penalty.

#### **47E Penalty for using rail vehicle that does not conform with accessibility regulations**

- (1) Where it appears to the Secretary of State that a regulated rail vehicle does not conform with a provision of rail vehicle accessibility regulations with which the vehicle is required to conform, the Secretary of State may give to the operator of the vehicle a notice—
  - (a) identifying the vehicle, the provision and how the vehicle fails to conform with the provision; and
  - (b) specifying the improvement deadline.
- (2) The improvement deadline specified in a notice under subsection (1) may not be earlier than the end of the prescribed period beginning with the day when the notice is given to the operator.
- (3) Subsection (4) applies where—
  - (a) the Secretary of State has given a notice under subsection (1);
  - (b) the improvement deadline specified in the notice has passed; and
  - (c) it appears to the Secretary of State that the vehicle still does not conform with the provision identified in the notice.
- (4) The Secretary of State may give to the operator a further notice—
  - (a) identifying the vehicle, the provision and how the vehicle fails to conform to the provision; and
  - (b) specifying the final deadline.
- (5) The final deadline specified in a notice under subsection (4) may not be earlier than the end of the prescribed period beginning with the day when the notice is given to the operator.
- (6) If—
  - (a) the Secretary of State has given a notice under subsection (4) to the operator of a regulated rail vehicle, and

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(b) the vehicle is used for carriage at a time after the final deadline when the vehicle does not conform with the provision identified in the notice, the Secretary of State may require the operator to pay a penalty.

**47F Penalty for using rail vehicle otherwise than in conformity with accessibility regulations**

- (1) Where it appears to the Secretary of State that a regulated rail vehicle has been used for carriage otherwise than in conformity with a provision of rail vehicle accessibility regulations with which use of the vehicle is required to conform, the Secretary of State may give to the operator of the vehicle a notice—
  - (a) identifying the provision and how it was breached;
  - (b) identifying which of the regulated rail vehicles operated by the operator is or are covered by the notice; and
  - (c) specifying the improvement deadline.
- (2) The improvement deadline specified in a notice under subsection (1) may not be earlier than the end of the prescribed period beginning with the day when the notice is given to the operator.
- (3) Subsection (4) applies where—
  - (a) the Secretary of State has given a notice under subsection (1);
  - (b) the improvement deadline specified in the notice has passed; and
  - (c) it appears to the Secretary of State that a vehicle covered by the notice has after that deadline been used for carriage otherwise than in conformity with the provision identified in the notice.
- (4) The Secretary of State may give to the operator a further notice—
  - (a) identifying the provision and how it was breached;
  - (b) identifying which of the regulated rail vehicles covered by the notice under subsection (1) is or are covered by the further notice; and
  - (c) specifying the final deadline.
- (5) The final deadline specified in a notice under subsection (4) may not be earlier than the end of the prescribed period beginning with the day when the notice is given to the operator.
- (6) If—
  - (a) the Secretary of State has given a notice under subsection (4), and
  - (b) a vehicle covered by the notice is at a time after the final deadline used for carriage otherwise than in conformity with the provision identified in the notice,
 the Secretary of State may require the operator of the vehicle to pay a penalty.
- (7) For the purposes of subsection (1), a vehicle is operated by a person if that person is the operator of the vehicle.

**47G Sections 47E and 47F: inspection of rail vehicles**

- (1) Where the Secretary of State has reasonable grounds for suspecting that a regulated rail vehicle may not conform with provisions of rail vehicle accessibility regulations with which it is required to conform, a person authorised by the Secretary of State—

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- (a) may inspect the vehicle for conformity with the provisions;
  - (b) for the purpose of exercising his power under paragraph (a)—
    - (i) may enter premises if he has reasonable grounds for suspecting the vehicle to be at those premises, and
    - (ii) may enter the vehicle; and
  - (c) for the purpose of exercising his power under paragraph (a) or (b), may require any person to afford such facilities and assistance with respect to matters under that person’s control as are necessary to enable the power to be exercised.
- (2) Where the Secretary of State has given a notice under section 47E(1) or (4), a person authorised by the Secretary of State—
- (a) may inspect the vehicle concerned for conformity with the provision specified in the notice;
  - (b) for the purpose of exercising his power under paragraph (a)—
    - (i) may enter premises if he has reasonable grounds for suspecting the vehicle to be at those premises, and
    - (ii) may enter the vehicle; and
  - (c) for the purpose of exercising his power under paragraph (a) or (b), may require any person to afford such facilities and assistance with respect to matters under that person’s control as are necessary to enable the power to be exercised.
- (3) A person exercising power under subsection (1) or (2) shall, if required to do so, produce evidence of his authority to exercise the power.
- (4) Where a person obstructs the exercise of power under subsection (1), the Secretary of State may, for purposes of section 47E(1) or 47F(1), draw such inferences from the obstruction as appear proper.
- (5) Where—
- (a) a person obstructs the exercise of power under subsection (2), and
  - (b) the obstruction occurs before a notice under section 47E(4) is given in respect of the vehicle concerned,
- the Secretary of State may treat section 47E(3)(c) as satisfied in the case concerned.
- (6) Where a person obstructs the exercise of power under subsection (2) and the obstruction occurs—
- (a) after a notice under section 47E(4) has been given in respect of the vehicle concerned, and
  - (b) as a result of the operator, or a person who acts on his behalf, behaving in a particular way with the intention of obstructing the exercise of the power,
- the Secretary of State may require the operator of the vehicle to pay a penalty.
- (7) In this section “inspect” includes test.

#### **47H Sections 47E and 47F: supplementary powers**

- (1) For the purposes of section 47E, the Secretary of State may give notice to a person requiring the person to supply the Secretary of State, by a time specified in the notice, with a vehicle number or other identifier for a rail vehicle—
- (a) of which that person is the operator; and

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- (b) which is described in the notice.
- (2) The time specified in a notice given to a person under subsection (1) may not be earlier than the end of 14 days beginning with the day when the notice is given to the person.
- (3) If a person to whom a notice is given under subsection (1) does not comply with the notice by the time specified in the notice, the Secretary of State may require the person to pay a penalty.
- (4) Where the Secretary of State has given a notice to a person under section 47E(1) or (4) or 47F(1) or (4), the Secretary of State may request that person to supply the Secretary of State, by a time specified in the request, with a statement detailing the steps taken in response to the notice.
- (5) The time specified in a request under subsection (4) must—
  - (a) if the request relates to a notice under section 47E(1) or 47F(1), be no earlier than the improvement deadline; and
  - (b) if the request relates to a notice under section 47E(4) or 47F(4), be no earlier than the final deadline.
- (6) Where a request under subsection (4)—
  - (a) relates to a notice under section 47E(1) or 47F(1), and
  - (b) is not complied with by the time specified in the request,the Secretary of State may treat section 47E(3)(c) or (as the case may be) section 47F(3)(c) as being satisfied in the case concerned.

#### **47J Penalties under sections 47D to 47H: amount, due date and recovery**

- (1) In this section “penalty” means a penalty under any of sections 47D to 47H.
- (2) The amount of a penalty—
  - (a) must not exceed the maximum prescribed for the purposes of this subsection; and
  - (b) must not exceed 10 per cent of the turnover of the person on whom it is imposed.
- (3) For the purposes of subsection (2)(b), a person’s turnover shall be determined in accordance with regulations.
- (4) A penalty must be paid to the Secretary of State before the end of the prescribed period.
- (5) Any sum payable to the Secretary of State as a penalty may be recovered by the Secretary of State as a debt due to him.
- (6) In proceedings under subsection (5) for enforcement of a penalty, no question may be raised as to—
  - (a) liability to the imposition of the penalty; or
  - (b) its amount.
- (7) Any sum paid to the Secretary of State as a penalty shall be paid by him into the Consolidated Fund.

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- (8) The Secretary of State shall issue a code of practice specifying matters to be considered in determining the amount of a penalty.
- (9) The Secretary of State may from time to time revise the whole or any part of the code and issue the code as revised.
- (10) Before issuing the first or a revised version of the code, the Secretary of State shall lay a draft of that version before Parliament.
- (11) After laying the draft of a version of the code before Parliament, the Secretary of State may bring that version of the code into operation by order.
- (12) The Secretary of State shall have regard to the code (in addition to any other matters he thinks relevant)—
  - (a) when imposing a penalty; and
  - (b) when considering under section 47K(6) a notice of objection under section 47K(4).

#### **47K Penalties under sections 47D to 47H: procedure**

- (1) In this section “penalty” means a penalty under any of sections 47D to 47H.
- (2) If the Secretary of State decides that a person is liable to a penalty, the Secretary of State must notify the person of the decision.
- (3) A notification under subsection (2) must—
  - (a) state the Secretary of State’s reasons for deciding that the person is liable to the penalty;
  - (b) state the amount of the penalty;
  - (c) specify the date before which, and the manner in which, the penalty must be paid; and
  - (d) include an explanation of the steps that the person may take if he objects to the penalty.
- (4) Where a person to whom a notification under subsection (2) is issued objects on the ground that—
  - (a) he is not liable to the imposition of a penalty, or
  - (b) the amount of the penalty is too high,the person may give a notice of objection to the Secretary of State.
- (5) A notice of objection must—
  - (a) be in writing;
  - (b) give the objector’s reasons; and
  - (c) be given before the end of the prescribed period.
- (6) Where the Secretary of State receives a notice of objection to a penalty in accordance with this section, he shall consider it and—
  - (a) cancel the penalty;
  - (b) reduce the penalty; or
  - (c) determine to do neither of those things.
- (7) Where the Secretary of State considers under subsection (6) a notice of objection under subsection (4), he shall—

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- (a) inform the objector of his decision before the end of the prescribed period or such longer period as he may agree with the objector; and
- (b) if he reduces the penalty, notify the objector of the reduced amount.

#### **47L Penalties under sections 47D to 47H: appeals**

- (1) A person may appeal to the court against a penalty imposed on him under any of sections 47D to 47H on the ground that—
  - (a) he is not liable to the imposition of a penalty; or
  - (b) the amount of the penalty is too high.
- (2) On an appeal under this section, the court may—
  - (a) allow the appeal and cancel the penalty;
  - (b) allow the appeal and reduce the penalty; or
  - (c) dismiss the appeal.
- (3) An appeal under this section shall be a re-hearing of the Secretary of State’s decision to impose a penalty, and shall be determined having regard to—
  - (a) any code of practice under section 47J which has effect at the time of the appeal; and
  - (b) any other matters which the court thinks relevant (which may include matters of which the Secretary of State was unaware).
- (4) An appeal may be brought by a person under this section against a penalty whether or not—
  - (a) he has given notice of objection under section 47K(4); or
  - (b) the penalty has been reduced under section 47K(6).
- (5) A reference in this section to “the court” is a reference—
  - (a) in England and Wales, to a county court; and
  - (b) in Scotland, to the sheriff.
- (6) The sheriff may transfer proceedings under this section to the Court of Session.
- (7) Where the sheriff has made a determination under subsection (2), any party to the proceedings may appeal on a point of law, either to the Sheriff Principal or to the Court of Session, against that determination.

#### **47M Sections 46 to 47H: interpretation**

- (1) In sections 46 to 47H “operator”, in relation to any rail vehicle, means the person having the management of that vehicle.
- (2) For the purposes of those sections, a person uses a vehicle for carriage if he uses it for the carriage of passengers.
- (3) Where an exemption order under section 47 authorises use of a rail vehicle even though the vehicle does not conform with a provision of rail vehicle accessibility regulations, references in sections 47A to 47G to provisions of rail vehicle accessibility regulations with which the vehicle is required to conform do not, in the vehicle’s case, include that provision.

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### Supplemental

#### 48 Offences by bodies corporate etc.

- (1) Where an offence under section 40 or 46 committed by a body corporate is committed with the consent or connivance of, or is attributable to any neglect on the part of, a director, manager, secretary or other similar officer of the body, or a person purporting to act in such a capacity, he as well as the body corporate is guilty of the offence.
- (2) In subsection (1) “director”, in relation to a body corporate whose affairs are managed by its members, means a member of the body corporate.
- (3) Where, in Scotland, an offence under section 40 or 46 committed by a partnership or by an unincorporated association other than a partnership is committed with the consent or connivance of, or is attributable to any neglect on the part of, a partner in the partnership or (as the case may be) a person concerned in the management or control of the association, he, as well as the partnership or association, is guilty of the offence.

#### Extent Information

**E18** In its application to Northern Ireland, this section has effect subject to the modifications set out in Sch. 8; see s. 70(6)

#### Commencement Information

**I10** S. 48 fully in force at 21.1.2003; s. 48 not in force at Royal Assent see s. 70(3)(6), Sch. 8 para. 48(1); s. 48 in force for certain purposes (E.W.S.) at 13.5.1998 by S.I. 1998/1282, art. 2; s. 48 in force for certain purposes (N.I.) at 13.5.1998 by S.R. 1998/183, art. 2; s. 48 in force (E.W.S.) at 30.8.2000 to the extent not previously in force by S.I. 2000/1969, art. 2; s. 48 in force (N.I.) at 21.1.2003 to the extent not previously in force by S.R. 2003/24, art. 2

#### 49 Forgery and false statements.

- (1) In this section “relevant document” means—
  - (a) a certificate of exemption issued under section 36 or 37;
  - (b) a notice of a kind mentioned in section 36(9)(b) or 37(8)(b);
  - (c) an accessibility certificate; or
  - (d) an approval certificate.
- (2) A person is guilty of an offence if, with intent to deceive, he—
  - (a) forges, alters or uses a relevant document;
  - (b) lends a relevant document to any other person;
  - (c) allows a relevant document to be used by any other person; or
  - (d) makes or has in his possession any document which closely resembles a relevant document.
- (3) A person who is guilty of an offence under subsection (2) is liable—
  - (a) on summary conviction, to a fine not exceeding the statutory maximum;
  - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.



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- (4) A person who knowingly makes a false statement for the purpose of obtaining an accessibility certificate or an approval certificate is guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

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**Changes to legislation:**

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