



# Disability Discrimination Act 1995

## 1995 CHAPTER 50

### PART V

#### PUBLIC TRANSPORT

##### *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.

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- (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>M1</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**

- E1** 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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**Modifications etc. (not altering text)**

**C1** 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**

**M1** 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**

**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)**

**C2** 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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- (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
  - (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.

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#### **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—
  - (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

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- (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
  - (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.



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- (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.
- (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.

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- (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—
  - (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.

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#### **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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