

**EXPLANATORY MEMORANDUM TO**  
**THE RAIL VEHICLE ACCESSIBILITY (NON-INTEROPERABLE RAIL**  
**SYSTEM)**  
**(LONDON UNDERGROUND METROPOLITAN LINE S8 VEHICLES)**  
**EXEMPTION ORDER 2011**

**2011 No.70**

1. 1.1 This explanatory memorandum has been prepared by the Department for Transport ("the Department") and is laid before Parliament by Command of Her Majesty.

**2. Purpose of the Instrument**

2.1 The Rail Vehicle Accessibility (Non-Interoperable Rail System) (London Underground Metropolitan Line S8 Vehicles) Exemptions Order 2011 (the "Order") exempts certain specified rail vehicles, which were built for use by London Underground Limited ("LUL") on the Metropolitan Line, from the requirement to provide boarding devices in accordance with the requirements of paragraph 1(1), Part 1 of Schedule 1 to the Rail Vehicle Accessibility (Non Interoperable Rail System) Regulations 2010 ("RVAR")<sup>1</sup>. The exemption applies when the vehicles stop at six station platforms (at four different stations) on the Metropolitan Line. This includes platforms at Neasden and Willesden Green stations (platforms 1 and 4 at those stations) which are dedicated to the Metropolitan Line but are not currently in use for Metropolitan Line services.

2.2 The Order sets an expiry date in the case of one of these exemptions. Four of the exemptions will expire when step-free access is provided from the station entrance to the station platforms specified. LUL has requested that one exemption is granted without limitation of time. However the Secretary of State may revoke the exemption by order (see paragraph 7.13).

**3. Matters of special interest to the Joint Committee on Statutory Instruments**

3.1 An exemption from RVAR in these circumstances, where new rail vehicles are being introduced, would normally require consideration via the draft affirmative resolution procedure. However, in this instance, the Secretary of State has decided to use his discretionary powers in regulation 5(2) of the Rail Vehicle Accessibility Exemption Orders (Parliamentary Procedures) Regulations 2008<sup>2</sup> to use the negative resolution procedure. This is because the application does not raise any new issues of principle in addition to those considered in the passage of the Rail Vehicle Accessibility (London Underground Metropolitan Line S8 Vehicles) Exemption Order

---

<sup>1</sup> S.I. 2010/432.

<sup>2</sup> S.I. 2008/2975.

2010.<sup>3</sup> A precedent was established by the earlier Order and the six additional platforms in question will only be used during disruption to services. Therefore, the Secretary of State believes that Parliament's time can more effectively be used on other matters.

3.2 The Disabled Persons Transport Advisory Committee<sup>4</sup> ("DPTAC") has been consulted in accordance with section 183(4) of the Equality Act 2010 and agrees that the use of the draft negative resolution procedure is appropriate in this instance.

#### **4. Legislative Context**

4.1 Section 182 of the Equality Act 2010 ("EA") empowers the Secretary of State to make rail vehicle accessibility regulations to ensure that it is possible for disabled persons, including wheelchair users, to travel in safety and reasonable comfort in those vehicles to which the regulations apply. The EA repeals the Disability Discrimination Act 1995 ("DDA")<sup>5</sup> and replaces those parts applying to rail vehicles (sections 46 and 47 as well as section 67 which relates to the power to make regulations and orders) with equivalent provisions (sections 182 to 187).

4.2 The Rail Vehicle Accessibility Regulations 1998 ("RVAR 1998") were made under the DDA and initially applied to rail vehicles constructed or adapted for passenger use and first brought into use after 31st December 1998. A number of amendments were made to RVAR 1998 in 2000.<sup>6</sup> In 2010 they were revoked and replaced by RVAR<sup>7</sup>, although the relevant provisions relating to boarding ramps for wheel-chair users remained substantively the same.

4.3 Equivalent exemptions to those in this Order, from article 4(b) of RVAR 1998, came into force in February 2010 (see paragraph 7.5 below) in respect of 65 station platforms on the Metropolitan Line. Although RVAR 1998 has since been revoked, the transitional provisions of RVAR ensure that those exemptions remain in force.

4.4 Section 183 of EA enables the Secretary of State to make an order authorising regulated rail vehicles to be used in passenger service even though they do not conform to the requirements of RVAR with which they are required to comply. These orders may impose conditions and restrictions on the exemptions.

#### **5. Territorial Extent and Application**

---

<sup>3</sup> S.I.2010/435.

<sup>4</sup> DPTAC was established under section 125 of the Transport Act 1985 to advise the Government on the public passenger transport needs of disabled people.

<sup>5</sup> Part 1 of Schedule 27 to the Equality Act 2010 (c.15).

<sup>6</sup> The Rail Vehicle Accessibility (Amendment) Regulations 2000, S.I. 2000/3215.

<sup>7</sup> S.I. 2010/432, article 7(1)(a).

5.1 This instrument applies to Great Britain.

## **6. European Convention on Human Rights**

6.1. As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

## **7. Policy Background**

7.1 The policy objectives of the EA are to ensure that all rail vehicles first brought into use after 31st December 1998 are designed in accordance with the specific requirements of the RVAR. EA also requires all rail vehicles to be accessible by 1st January 2020. Where applications are received for exemption from RVAR requirements, each is considered on a case by case basis. Exemptions are granted by order, subject to certain conditions.

7.2 In this instance LUL, the operator, is taking delivery of 58 new eight-car S8 trains on the Metropolitan Line. These vehicles are part of a broader improvement programme for its sub-surface lines which includes upgrades to signalling and stations with the aim of increasing capacity and reducing delays. There will also be associated work at stations as part of LUL's wider "Step Free Access" programme which aims to provide full step-free access at over 25 per cent of stations by the end of 2017.

7.3 The Metropolitan Line presents particular challenges because many elements of infrastructure, including platform alignments, were built over 100 years ago when attitudes towards customer accessibility were very different. Some platforms are severely curved or of compromised height where the line is shared with other LUL or National Rail lines. In these circumstances, the platforms must make allowances for the different height, size and shape of trains which use the same track and platforms, and do not conform to LUL standards.

7.4 As result, LUL has identified a small number of cases where compliance with accessibility requirements currently presents a substantial and complex challenge to its operations.

7.5 Exemptions from five requirements were granted by S.I. 2010/435 (see paragraph 3.1 above). One of the exemptions related to the requirement to fit boarding devices between the wheelchair compatible doorways on a regulated vehicle and a platform where there is a gap exceeding 75 millimetres measured horizontally and/or 50 millimetres measured vertically. Exemptions were granted in 65 instances on the Metropolitan Line where the platform, station and exempted vehicles were specified. LUL has now advised us that previously unidentified service patterns, during disruption on the Metropolitan and Jubilee lines, may mean that S8 vehicles would have to stop at an additional 6 platforms which were not included in the original application and which are not therefore included in the exemption from the boarding device requirement granted by S.I. 2010/435. LUL therefore submitted a supplementary application in respect of these platforms.

7.6 In the case of platform 2 at Harrow on the Hill station, the Order provides for an exemption until 30th November 2013 for platform 2 when step-free access will be provided. For the remaining 5 exemptions, no time limit is specified. However, the exemptions relating to platforms 1 and 4 at Neasden station and platforms 1 and 4 at Willesden Green station (all of which are dedicated Metropolitan Line platforms that are not currently used for Metropolitan Line services) will expire when access is made step-free from the station entrance to the relevant platform. In the case of platform 1 at Aldgate station, the exemption is currently without limitation of time and it is expected that the exemption will be required until a solution can be found to the severely curved platform.

7.7 Since the exemptions granted by this Order are specific to certain station platforms, to the Metropolitan Line and to LUL's operational requirements, they would not apply if the vehicles were used on another network or at other stations. In addition to the exemptions on the Metropolitan Line granted by S.I. 2010/435, a number of similar exemptions were granted in 2008<sup>8</sup> in relation to platforms and stations on the Victoria Line where new trains have also been introduced.

7.8 The new S8 trains will progressively replace the existing fleet of older trains on the Metropolitan Line (known as "A stock"). It is intended that this stock upgrade will be complete by May 2013. The A stock vehicles are not subject to RVAR because they were built before those regulations came into force and they do not therefore meet their specifications in a number of ways. Although S.I. 2010/435 granted exemptions from five requirements of RVAR 1998, the S8 vehicles are significantly more accessible than the A stock vehicles overall.

### **Wheelchair compatible doorways**

7.9 RVAR requires the S8 trains to be wheelchair accessible and each train will have four wheelchair spaces installed which is more than required by the regulations. However, LUL believes that it would be impractical to use manual boarding ramps for wheelchair users to span the gap between the train and the platform giving access to these spaces. It contends that this is difficult because of limited space on platforms, the degree of crowding on some platforms during peak hours and the potential impact that using boarding ramps might have on dwell times.

7.10 Although the new S8 train has been designed with a lower floor than the old A stock Metropolitan line trains, LUL notes that this provision alone will not make the vehicles compliant at all platforms. Instead, LUL's preference has been to install platform humps where possible positioned to allow level access to those carriages with wheelchair spaces and wheelchair users themselves prefer level access over the use of manually deployed ramps as this allows independent travel without the need to involve staff. The wheelchair spaces will always be in the middle two carriages of each of the S8

---

<sup>8</sup> S.I. 2008/2969.

trains. This will mean that the wheelchair spaces are always adjacent to the platform humps when the train arrives at a station which has had these installed.

7.11 LUL wishes to link the exemption to its "Step Free Access" programme so that work to provide level access between the platform and the train is carried out alongside broader refurbishment work to give step-free access to the platform from street level (see paragraph 7.6 above regarding expiry dates). This would reduce the risk of a passenger getting stranded on a platform where there is no step-free route out of the station and minimise the disruption caused by engineering work.

7.12 S.I. 435/2010 granted exemptions from the requirement for boarding devices in instances where certain specified vehicles within the new S8 fleet stop at specified platforms at stations on the Metropolitan Line. This Order is now the result of a supplementary application in relation to six additional platforms and the Order has been considered in the context of the requirements of Paragraph 1(1) of Part 1, Schedule 1 of RVAR.

7.13 The Secretary of State has the power to revoke the exemptions by Order if they are no longer appropriate. LUL has undertaken to comply with RVAR requirements as early as possible when works to provide step-free access are completed.

## **8. Consultation Outcome**

8.1 Section 183(4) of the EA requires the Secretary of State, as part of his consideration of an application for exemption, to consult DPTAC together with any other appropriate persons. LUL's application was posted on the Department's web site.

8.2 Comments were received from DPTAC, the Office of Rail Regulation and London Travelwatch. Consultees had no objection to the application, although each made comments about specific aspects of the exemptions requested. DPTAC was content for the order to be dealt with under the negative resolution process, given the precedent set by S.I. 2010/435. DPTAC did express the view that exemptions granted should be time limited and that, whilst LUL does not wish to have ramps on every platform, all accessible stations should have at least one boarding ramp available in case of emergencies.

8.3. In support of the exemptions granted by S.I. 2010/435, LUL supplied evidence to demonstrate that the introduction of their new low floor S8 trains would significantly reduce existing stepping distances at these stations by 190mm. Whilst these trains would remain non-compliant at some stations, it would nevertheless be significantly easier for wheelchair users to alight independently or with assistance during an emergency without having to rely on manual handling by the emergency services. LUL does not therefore believe that the provision of boarding ramps for emergencies is necessary. The Department shares this view.

## **9. Guidance**

9.1 Comprehensive guidance on the application of RVAR 1998 has been published.<sup>9</sup> This remains relevant to RVAR. The Department has worked closely with LUL and DPTAC throughout the design and manufacture stages of the new Metropolitan Line vehicles to ensure that the number of exemptions is minimised.

## **10. Impact**

10.1 An Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

10.2 The impact on the public sector is negligible.

## **11. Regulating small business**

11.1 The Order does not apply to any small businesses.

## **12. Monitoring & Review**

12.1 The Government's policy objective is to ensure that the number of exemptions is minimised and that new and refurbished rail vehicles are as compliant as possible with the requirements of RVAR.

12.2 Since the Order contains some exemptions which are not time limited, the Secretary of State will keep these provisions under review and will consider whether to revoke these in future, in consultation with stakeholders, if it were no longer felt that these were appropriate. The time limit for the completion of work at Harrow on the Hill station will be closely monitored to ensure the relevant deadline is met.

## **13. Contact**

13.1 John Bengough at the Department for Transport (Tel: 020 7944 5035 or e-mail: john.bengough@dft.gsi.gov.uk) can answer any queries regarding the Order.

---

<sup>9</sup> See [www.dft.gov.uk/transportforyou/access/rail/vehicles/pubs/rva/rvareg1998](http://www.dft.gov.uk/transportforyou/access/rail/vehicles/pubs/rva/rvareg1998).