

RAIL VEHICLE ACCESSIBILITY (B2007 VEHICLES) (AMENDMENT) EXEMPTION ORDER 2016

Explanatory Note

What does the Order do?

1. The Order amends the Rail Vehicle Accessibility (B2007 Vehicles) Exemption Order 2015 (S.I. 2015/1631) (“the 2015 Order”, a copy of which can be found at **Annex A**) which exempts certain rail vehicles of the type B2007 from the requirement under the Rail Vehicle Accessibility (Non-Interoperable Rail System) Regulations 2010 (S.I. 2010/432) (“the RVAR”) for boarding devices to be fitted between wheelchair-compatible doorways and the platform where the vehicles are stationary at specified stations on the Docklands Light Railway.
2. The exemption granted by the 2015 Order is subject to a condition that the gap between the carriage floor and the platform is not more than 85 millimetres measured horizontally, and a condition that the gap is not more than 50 millimetres measured vertically. In relation to platforms at stations listed in Table 2 of the Schedule to the 2015 Order (which includes Bank station), the condition in respect of the horizontal gap does not apply until the dates specified in the table.
3. This Order amends Table 2 in the Schedule to the 2015 Order so that the condition in respect of horizontal gaps does not apply in respect of platform 10 at Bank station until 1 January 2021. The condition in respect of platform 9 at Bank station continues to apply from 1 January 2017.

Why has the Order been made?

4. Docklands Light Railway (“DLR”) is seeking an exemption from the RVAR requirement that if the gap between the floor of the rail vehicle and the platform is more than 75 millimetres when measured horizontally, or more than 50 millimetres when measured vertically, a boarding device (lift or ramp) must be fitted by an operator if a person in a wheelchair wishes to use the doorway¹.
5. The DLR network presents particular challenges because it was designed to have minimal steps between the carriage floor and platform. As a result DLR have to ensure that in reducing the gaps between vehicle and platform in order to comply with the RVAR requirements they are not creating a risk of collision between vehicle and platform. Such a collision occurred in 2007 and led to a major overhaul of engineering standards within DLR.
6. DLR has considered the use of boarding devices in the past, but infrastructure constraints, the intensity of the service and the staffing model employed by DLR make this impractical, as it would present a hazard on the narrow platforms, impact on the time during which the vehicle is in the station (and therefore the overall service), and would also increase staffing levels.

¹ A copy of DLR’s application can be found at: <https://www.gov.uk/government/publications/list-of-rvar-exemption-orders>.

7. When the B2007 vehicles were introduced in 2007 DLR applied for an exemption order in respect of the stations where the gaps between vehicles and platform would otherwise require the use of a boarding device under previous accessibility regulations. The exemption was granted in the Rail Vehicle Accessibility (B2007 Vehicles) Exemption Order 2008. Several months after the exemption expired DLR requested that the exemption be renewed and a further exemption was granted in the 2015 Order.

8. As part of their application for the 2015 Order DLR committed to undertake works to reduce the platform gap to not more than 85 millimetres horizontally at Bank station by 1st January 2017. This followed extensive research undertaken by DLR which found that the risk of an incident at the interface between vehicle and platform is very similar as between those stations where the horizontal gap is less than or equal to 75 millimetres (where a boarding device would not be required under RVAR) and those where the gap exceeds 75mm but is not more than 85mm. As a result the exemption granted was subject to a condition that the horizontal gap be reduced to 85 millimetres by 1st January 2017.

9. DLR has identified that, owing to a programme of station works at Bank, it will not be possible to reduce the horizontal platform gap at platform 10 by 1st January 2017 although works to platform 9 have reduced the horizontal platform gap to the level required by the condition. This Order therefore amends the 2015 Order so that the condition in relation to the horizontal gap does not apply until 21st January 2021 at platform 10. In the interim period DLR will install “Mind the Gap” platform markings at wheelchair-compatible doorways and will modify Passenger Service Agent announcement scripts to include a warning at all platforms. The exemption of B2007 vehicles stationary at the other stations set out in the Schedule to the 2015 Order are unaffected by this Order.

Why has the exemption been made without being laid before Parliament?

10. Following amendment of the Equality Act 2010 by the Deregulation Act 2015 (“the 2015 Act”), exemptions are now made as administrative orders, rather than statutory instruments. Paragraph 31(2) of Part 7 of Schedule 10 to the 2015 Act provides that orders made by statutory instrument before certain provisions of the 2015 Act came into force (such as the 2015 Order) are to be treated as have been made otherwise than by statutory instrument and are as capable as being amended or revoked as orders made by statutory instrument. This Order therefore amends the 2015 Order administratively. The Order will, however, be notified to Parliament in the Annual Report which the Secretary of State is required to lay before Parliament under section 185 of the Equality Act.

Who has been consulted and what did they say?

11. We consulted the Disabled Persons Transport Advisory Committee (“DPTAC”), the Office of Rail and Road (“ORR”), Transport Focus and London Travelwatch on the exemption request, as well as carrying out a period of public consultation via our website. ORR raised a question about operational mitigation of the platform gap risk,

to which DLR responded and ORR were satisfied with the proposals. No further material issues were raised. Responses can be found at **Annex B**.

Is there an impact assessment?

12. An impact assessment has not been produced for this instrument as no cost to business or voluntary sectors is foreseen.

Contact

13. Julia Christie at the Department for Transport: Tel: 020 7944 2991 or email: julia.christie@dft.gsi.gov.uk can answer any queries regarding the Order.

Annex A

<http://www.legislation.gov.uk/uksi/2015/1631/contents/made>

Annex B – Stakeholder Consultation

DLR – B2007 Stock – Use of Manual Boarding Ramps at Platform 10 at Bank Station

DPTAC

From: David Partington

Sent: 16 December 2016 15:53

Subject: Re: Application under section 183 of the Equality Act 2010 - RVAR exemption DLR

DPTAC support the exemption requests you requested on the following grounds:

- A request for an amendment to an existing exemption relating to platform stepping distances to be in place during a period of disruption during upgrade works for Platform 10 at Bank (the existing exemption can be found here: http://www.legislation.gov.uk/ukxi/2015/1631/pdfs/ukxi_20151631_en.pdf)

DPTAC recognise that this exemption request is a deferral of the RVAR until 2021 and is acceptable under the reasons cited in the exemption request.

ORR

From: Turner, Giles

Sent: 16 December 2016 14:41

Subject: RE: Due 16 Dec: Application under section 183 of the Equality Act 2010 - RVAR exemption DLR

Thank you for the opportunity to comment on DLR's applications for exemptions from elements of RVAR. I have consulted with the inspector who leads for DLR, and we comment as follows:

- *RVAR98 Regulation 23(1) / RVAR10 Schedule 1 Part 1 1 (provision of boarding aids):* DLR has not described its arrangements in respect of managing the risks to passengers using wheelchairs who may not be able to alight safely at Bank Platform 10. We are interested in how DLR will identify whether the gap is capable of being crossed by a person using a wheelchair, how it will prevent passengers who cannot cross the gap safely from attempting to do so, and the type of assistance that will be provided to passengers in this situation. We are content with the principle of the exemption but will engage with DLR in our role as health and safety regulator to explore these points.

DLR additional information:

'We will do what we can from an Operational point of view [in relation to mitigating the platform gap at Platform 10]. This includes when a Passenger Service Agent (PSA) observes a Wheelchair passenger board the train they will approach them and assess where

they are alighting and give suitable advice. If they can't approach them due to crowding or time restraints, they will make announcements to 'Mind the Gap' or wait for assistance. The other option is, if for some reason the passenger doesn't feel confident to alight at Platform 10 the PSA will stay with the passenger and travel into the headshunt and they can then alight at Platform 9 which is fully compliant.

There has been no change in the Platform for many years, we have had no issues or reports of wheelchairs having issues alighting. There are various members of staff on the platform to assist or reassure the passenger help is on the way.'

London TravelWatch

From: Tim Bellenger

Sent: 16 December 2016 15:07

Subject: RE: Due 16 Dec: Application under section 183 of the Equality Act 2010 - RVAR exemption DLR

Having reviewed each of them London TravelWatch has no objection to the proposed exemptions.

Yours sincerely

Tim Bellenger

Transport Focus

From: Phil Wilks

Sent: 23 November 2016 13:41

Subject: RE: Application under section 183 of the Equality Act 2010 - RVAR exemption DLR

As DLR operates wholly within the area under London TravelWatch's remit, Transport Focus will not comment.

Kind regards,

Philip Wilks

Senior Policy Advisor

Transport Focus ([London office](#))

The independent transport user watchdog