

# **THE RAIL VEHICLE ACCESSIBILITY (NON-INTEROPERABLE RAIL SYSTEM) (SOUTHEND PIER RAILWAY) EXEMPTION ORDER 2022**

## **Explanatory Note**

### **What does the Order do?**

1. The Order exempts the SPR/21 vehicles introduced in 2022 and operated by Southend Pier Railway (“SPR”) from certain requirements of the Rail Vehicle Accessibility (Non-Interoperable Rail System) Regulations 2010 (“RVAR 2010”). The Order is made by the Secretary of State in exercise of powers conferred by sections 183(1), (2), 4(a) and (7) and 207(1) and (4) of the Equality Act 2010. The Order is being made in exercise of the Secretary of States power in section 183(4)(a) as the Order is being made in the terms of the application for the Order.

### **What requirements does this Order cover?**

2. This Order covers exemptions for the aspects of the trains’ design which do not meet accessibility requirements. These relate to priority seats for disabled persons in the vehicle and provision of a fitting at one end of each wheelchair space (backrest).

3. This exemption applies to the SPR/21 lithium battery electric vehicles, built by SL Transportation Limited (trading as Severn Lamb) and introduced on SPR in 2022.

### **Why has the Order been made?**

4. The design of the vehicles complies with the RVAR 2010 requirements except where the narrow gauge and the horizontal and vertical beams and other Pier equipment of the North Station restrict the physical envelope of the train, which makes full compliance for these trains impracticable.

5. The use of exemptions for some aspects of the design recognises the nature of SPR services, which operate a shuttle service along the pier.

6. The vehicles do not meet the following standards and requirements at Part 1 of Schedule 1 to RVAR 2010:

(a) paragraph 13(3) (specifications for priority seat), in respect of the specified distance of 600mm between seats; and

(b) paragraph 20(4) (provision of a fitting at one end of wheelchair space (backrest)).

### **What Mitigations are in place for non-compliance?**

7. Mitigations for each of these two non-compliances are as follows:

(a) The bench type seats meet the required seat height, total height, and headroom dimensions set out in Schedule 2 diagrams C1 and C2. The length of the benches will accommodate multiple passengers (exceeding the required width of 450 mm), although it is not intended to mark individual spaces on the bench seating, in order to provide maximum flexibility as to how the seating is used (eg if extra width is required for some passengers).

The legroom for the priority seats may be increased by keeping the space opposite free from passengers. The driver / train operator staff will be available to assist passengers in providing suitable seating, as required.

The total journey time from one end of the pier to the other will be short (about ten minutes), with low operating speeds and controlled acceleration / deceleration rates to minimise jerking movement which could otherwise cause discomfort for passengers requiring additional legroom.

(b) The intended normal operating speed of the trains is less than 20 kph and the route between North and South Station is effectively straight, with the passing loop taken at a reduced speed. Furthermore, the acceleration / deceleration rates will be automatically controlled via the electric motors and configured to minimise any jerking motion. As a result, it is not anticipated that wheelchair users would experience forces that would require a fitting (backrest) to prevent movement or tipping.

A mock-up of the proposed layout has been used to test access using a reference wheelchair. This has demonstrated the ability to access and manoeuvre into and out of each of the potential spaces. It is intended to mark the floor showing the area for the wheelchair space but allow the wheelchair user to determine how the space is used (ie how positioned / orientated within the space in line with their own preference).

The driver / train operator staff will be available to assist wheelchair users (and other mobility impaired persons) in finding an appropriate space.

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

8. Following the amendment of section 183 of the Equality Act 2010 by the Deregulation Act 2015, which inserted paragraph (7), exemptions can now be made by administrative orders, rather than by statutory instruments. The Order will, however, be notified to Parliament in the Annual Report which the Secretary of State is required to lay before Parliament by section 185 of the Equality Act.

### **Who has been consulted and what did they say?**

9. We consulted the Disabled Persons Transport Advisory Committee (“DPTAC”), the Office of Rail and Road (“ORR”), and Transport Focus on the exemption request.

10. DPTAC’s response welcomed the accessibility improvements but were concerned that the wheelchair position could block access to the bench seating beyond. They suggested testing this, and the priority seat arrangement and lack of backrest, with wheelchair users and travelling companions. In response, SPR arranged for wheelchair users (witnessed by stakeholders including DfT) to experience a new train, allowing access and egress and a journey along the pier, including an emergency stop. The users’ response was very positive. A written report of the visit and outcome was provided to DPTAC, which advised that its concerns had been addressed satisfactorily.

11. ORR responded with no objections to the two requested exemptions.

12. Transport Focus responded with no objections to the two requested exemptions.

13. The consultation responses from DPTAC, ORR and Transport Focus are set out in full at Annex A.

**Is there an impact assessment?**

14. A full published impact assessment has not been undertaken due to the small nature of the impacts. This Exemption Order will enable new trains to be put into service for the benefit of those who use them and will not impose any costs on the SPR.

**Contact**

15. Philip Hunt at the Department of Transport: Tel: 07812 483546 or e-mail: [philip.hunt@dft.gov.uk](mailto:philip.hunt@dft.gov.uk), can answer any queries regarding the Order.

## **Annex A – Stakeholder Consultation**

### **DPTAC**

24 November 2021

Thank you for asking us to comment on this application. I have set out DPTAC's comments below:

(1) In general we were pleased that the new rail vehicles will be significantly more accessible than their predecessors, and that accessibility had clearly been considered when designing the vehicles. Level boarding was a particularly notable improvement, as was the inclusion of hearing loops in some carriages and the provision of visual information displays.

(2) We have noted the design constraints resulting from the unusual environment that these trains will operate in, and the resulting limitations on the physical envelope of the trains.

(3) We note that the trains will provide more wheelchair spaces than required by RVAR, but we have some concerns around the practicality of the proposed arrangement (option A in figure 3 if we have understood correctly) as wheelchairs in this position are likely to block access to the bench seating beyond. We would strongly suggest Southend Pier Railway undertakes some practical testing with wheelchair users and travelling companions to establish how this arrangement might work best in practice, with whatever emerges as the best arrangement being communicated to disabled passengers ahead of travelling through the normal range of communication channels. We also note that the lack of an RVAR-required backrest is mitigated by the slow speed of the trains and controlled acceleration/deceleration rates. However, we would again suggest that this is tested to ensure that the trains can operate safely on this basis.

(4) Similarly we note that the area of non-compliance associated with the priority seating, although the siting of the priority seats next to the doorways/vestibules seems sensible, as this will provide space next to the priority seating for mobility aids and so on (as well as for buggies and similar accompanied items). However, there are again potential issues around practicality caused by the non-compliant gangway width, and we would again suggest that practical testing is undertaken, with signage and staff training/operating procedures being amended as necessary.

(5) One strong concern that we have with this application is that it appears to have been made extremely close to the planned operational use of these vehicles, severely limiting the extent to which our comments and those of other stakeholders can be addressed by the Department and operator concerned. This leaves the impression, at least, that it is little more than a 'tick box' exercise. We would very strongly encourage the Department to ensure that future dispensation and exemption applications are lodged at a much earlier stage, when our comments and those of other stakeholders can be properly considered.

If it would be helpful, I would be happy to discuss any of the above in more detail.

Note: SPR arranged a visit on 29 March 2022 for wheelchair users to board and travel on the train. On the basis of the report of the visit, DPTAC confirmed on 19 April 2022 that its concerns had been addressed satisfactorily.

## **ORR**

24 November 2021

Thank you for the opportunity to comment on Southend Pier Railway's request for exemptions for its new trains in accordance with the submission Southend Pier Railway RVAR Exemption Application Form.

We have no objection to exemption from the priority seat specification (Part 1, 13(3)).

We understand that the space constraints prevent the installation of the fitting usually required at one end of a wheelchair space (Part 1, 20(4)). On the understanding that the characteristics of the operation mean that the forces imposed on a passenger using a wheelchair will be low, we do not object to exemption from the requirement. However, the applicant should be mindful that the exemption does not constitute an exemption from the statutory requirement to reduce risks so far as is reasonably practicable.

We also confirm that we have not identified restrictions on our ability to use our regulatory powers where necessary.

We would be very happy to discuss the applicant's approach to risk management in relation to the latter two elements of the exemption if they wish.

## **Transport Focus**

8 November 2021

Having read through the request and considered the mitigations we do not wish to raise any objections. Whilst it's always disappointing when a fully compliant design cannot be found we understand that in the circumstances described any new vehicle's accessibility will be restricted to a degree by the infrastructure on which it has to run. Overall, the new trains sound like they will offer a much-improved experience for disabled passengers.

In respect of the proposed location of the wheelchair space, and subsequent lack of backboard, we note that SPR say testing has been undertaken to ensure that a reference wheelchair fits into the two potential spaces. It isn't explicitly stated that this testing was undertaken with wheelchair users, who would have relevant lived experience. If this was not the case we'd strongly encourage SPR to undertake further testing with actual users, as they would inevitably offer valuable insight into the practicalities of getting in and out of designated spaces.