Draft Order laid before Parliament under section 67(5A) of the Disability Discrimination Act 1995, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2009 No. 0000

DISABLED PERSONS

TRANSPORT

The Rail Vehicle Accessibility (Networks) Exemption Order 2009

Made - - - -	*xxx*
Coming into force - -	*xxx*

The Secretary of State makes the following Order in exercise of the powers conferred by sections 47(1), (1A) and (4) and 67(2) of the Disability Discrimination Act 1995(**1**).

Having consulted the Disabled Persons Transport Advisory Committee(**2**) in accordance with section 67A(1)(**3**) of that Act, the Secretary of State has decided that the Parliamentary procedure to be adopted is that a draft statutory instrument containing the order will be laid before Parliament for approval by each House of Parliament.

In accordance with section 67(5A)(**4**) of that Act a draft of this instrument has been laid before Parliament and approved by a resolution of each House of Parliament.

Citation and commencement

1. This Order may be cited as the Rail Vehicle Accessibility (Networks) Exemption Order 2009 and comes into force on the fifteenth day after the day on which it is made.

Interpretation

2. In this Order—

(**1**) 1995 c. 50; section 47(1) and (1A) was inserted by section 6(3) of the Disability Discrimination Act 2005 (c. 13).
(**2**) The Disabled Persons Transport Advisory Committee was established under section 125 of the Transport Act 1985 (c. 67) and has a statutory duty to provide the Government with advice on the public passenger transport needs of disabled people.
(**3**) Section 67A was inserted by section 6(4) of the Disability Discrimination Act 2005. The Secretary of State has discretion as to which of the two types of parliamentary procedures referred to in section 67(5A) of that Act is to be adopted because regulations made under section 67A(3) are in force (see section 67A(2)(a) and S.I. 2008/2975). Those regulations set out the basis on which the Secretary of State exercises that discretion.
(**4**) Section 67(5A) was inserted by section 19(1) and Schedule 1, Part 1, paragraph 33(5) of the Disability Discrimination Act 2005.

"fairground equipment" means—

(a) any fairground ride; or

(b) any similar equipment which is designed to be in motion solely for entertainment purposes with members of the public on or inside it;

"heritage or tourist network" means a network named or described in the Schedule or within the grounds of a place named or described in the Schedule;

"mine" has the same meaning as in section 180 of the Mines and Quarries Act 1954(**5**);

"network" means any permanent way or other means of guiding or supporting rail vehicles(**6**) or any section of it;

"quarry" has the same meaning as in regulation 3 of the Quarries Regulations 1999(**7**);

"traffic day" means a period of 24 hours starting at 3am.

Authorised use of heritage or tourist rail vehicles

3.—(1) A rail vehicle first brought into use before 1st January 1999 is authorised to be used for carriage as indicated in paragraph (2) even though—

(a) it does not conform with the provisions of rail vehicle accessibility regulations(**8**) with which it is required to conform, or

(b) it is used otherwise than in conformity with the provisions of rail vehicle accessibility regulations with which its use is required to conform,

but this is subject to paragraphs (3) and (4).

(2) The authorisation under paragraph (1) applies to—

(a) the use for carriage on a heritage or tourist network,

(b) the use for carriage in a depot that forms part of a network to which the provisions of rail vehicle accessibility regulations apply and which is not a heritage or tourist network, and

(c) the use for carriage on one or more networks—

(i) to which the provisions of rail vehicle accessibility regulations apply; and

(ii) which are not otherwise authorised by this article,

on not more than 20 traffic days in any calendar year.

(3) The authorisation for use for carriage by virtue of paragraph (2)(a) or (b) applies only if the rail vehicle—

(a) is used to demonstrate or operate a historical or special type of transport service; and

(b) is used primarily for tourist, educational or recreational purposes.

(4) The authorisation for use for carriage by virtue of paragraph (2)(c) applies only if—

(a) it has been used for carriage in accordance with paragraphs (2)(a) or (b), and (3) at some time in the preceding twelve months,

(b) it has been on display at a museum as an example or replica of a historical rail vehicle at some time in the preceding twelve months, or

(c) it is a restored vehicle and arrangements are in place—

(**5**) 1954 c. 70; see section 180 which was amended by S.I. 1974/2013, 1993/1897 and 1999/2024.
(**6**) "rail vehicle" is defined in sections 46(6) and 68(1) of the Disability Discrimination Act 1995; the definition in section 46(6) is amended by section 6(2)(b) of the Disability Discrimination Act 2005 and SI 2008/1746.
(**7**) S.I. 1999/2024, to which there are amendments not relevant to this Order; see regulation 3. Regulation 3(2)(c) provides that "quarry" does not include certain types of railway line.
(**8**) "rail vehicle accessibility regulations" is defined in section 68(1) of the Disability Discrimination Act 1995.

(i) for the rail vehicle to be used in accordance with paragraphs (2)(a) or (b), and (3), or

(ii) for it to be displayed at a museum as an example or replica of a historical rail vehicle, and

when it is used for carriage on the first of the 20 permitted traffic days in a calendar year it is being used for the first time after being restored.

Authorised use of rail vehicles on a miscellaneous network

4.—(1) A rail vehicle is authorised to be used for carriage as indicated in paragraph (2) even though—

(a) it does not conform with the provisions of rail vehicle accessibility regulations with which it is required to conform, or

(b) it is used otherwise than in conformity with the provisions of rail vehicle accessibility regulations with which its use is required to conform,

but this is subject to paragraph (4).

(2) The authorisation under paragraph (1) applies to—

(a) the use for carriage on a network described in paragraph (3) ("a miscellaneous network"), and

(b) the use for carriage on one or more networks—

(i) to which the provisions of rail vehicle accessibility regulations apply; and

(ii) which are not miscellaneous networks,

on not more than 20 traffic days in any calendar year.

(3) A miscellaneous network is a network which—

(a) is situated entirely on premises used for the purposes of an industrial undertaking or an undertaking engaged in the generation of electricity;

(b) forms part of a mine or quarry;

(c) is used solely in connection with the carrying out of any engineering or building works;

(d) is situated entirely within an establishment which is intended to be used solely for the purposes of the armed forces of the United Kingdom or visiting armed forces or the Ministry of Defence;

(e) is situated entirely within the grounds of a dwelling house and is not connected to any other network; or

(f) is used as or as part of any fairground equipment.

(4) The authorisation for use for carriage by virtue of paragraph (2)(b) applies only if it has been used for carriage in accordance with paragraph (2)(a) some time in the preceding twelve months.

Signed by authority of the Secretary of State for Transport

Name
Parliamentary Under Secretary of State
Date Department for Transport

SCHEDULE

Article 2

Heritage or Tourist Networks

Name or description of network
Abbey Light Railway
Abbey Pumping Station Museum
Aberystwyth Electric Cliff Railway
Alford Valley Railway
Almond Valley Railway
Aln Valley Railway
Amberley Working Museum
American Adventure Theme Park
Amerton Railway
Apedale Valley Light Railway
Appleby Frodingham Railway
Avon Valley Railway
Babbacombe Cliff Railway
Bala Lake Railway
Barrow Hill Roundhouse Railway Centre
Battlefield Line Railway
Beamish North of England Open Air Museum
Bicton Woodland Railway
Bideford Railway Museum
The Black Country Living Museum
Blackpool Zoo Miniature Railway
Blenheim Park Railway
Bluebell Railway
Bodmin and Wenford Railway
Bo'ness and Kinneil Railway
Bournemouth Fisherman's Walk Cliff Railway
Bowes Railway
Bradford Industrial Museum
Brecon Mountain Railway
Bredgar and Wormshill Light Railway
Bressingham Steam Museum
Bridgend Valleys Railway