STATUTORY RULES OF NORTHERN IRELAND

2014 No. 45

DISABLED PERSONS

TRANSPORT

The Rail Vehicle Accessibility Regulations (Northern Ireland) 2014

Made - - - - *25th February 2014*

Coming into operation *28th April 2014*

The Department for Regional Development (**1**) makes the following Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972 (**2**) and sections 46(1), (2), (4A) and (5) and 67(3)(a) of the Disability Discrimination Act 1995 (**3**) and now vested in it (**4**).

The Department for Regional Development is a Department designated for the purposes of section 2(2) of the European Communities Act 1972 in relation to measures relating to discrimination (**5**) and to railways and railway transport (**6**).

In accordance with section 46(11) of the Disability Discrimination Act 1995 the Department has consulted with such representative organisations as it thinks fit.

Citation and commencement

1. These Regulations may be cited as the Rail Vehicle Accessibility Regulations (Northern Ireland) 2014 and shall come into operation on 28th April 2014.

(**1**) SI 1999/283

(**2**) 1972 c. 68; section 2(2) was amended by the Legislative and Regulatory Reform Act 2006 (c.51), section 27(1) (a); also amended by the European Union (Amendment) Act 2008 (c.7), Schedule, Part 1.

(**3**) 1995 c.50;. section 46 is modified in its application to Northern Ireland by paragraph 30 of Schedule 8; section 46(3), (4), and (8) to (10) and the definition of "operator" in section 46(6) were repealed by the Disability Discrimination (Northern Ireland) Order 2006 (N.I. 1), Schedule 2; section 46(4A) was inserted by Article 8(1) of that Order; in section 46(6) the definition of "rail vehicle" was substituted by Article 8(2) of that Order, and the definition of "regulated rail vehicle" was amended by Schedule 1, Part 1 paragraphs 1 and 21(b) of that Order: section 67, in its application to Northern Ireland, is substituted by paragraph 46 of the said Schedule 8 to the Disability Discrimination Act 1995; see section 68(1) as substituted by paragraph 47(1) of the said Schedule 8 for the definition of "regulations"; there are amendments to sections 67 and 68 which are not relevant to these Regulations.

(**4**) S.R. 1999 No. 481 article 6 (d) and Schedule 4 Part IV

(**5**) SI 2002/1819

(**6**) SI 1999/266, to which there are amendments not relevant to these Regulations

Interpretation

2.—(1) In these Regulations—

"the 1978 Order" means the Health and Safety at Work (Northern Ireland) Order 1978 (**7**);

"the 1995 Act" means the Disability Discrimination Act 1995;

"class of passenger accommodation" means a category of passenger accommodation in a rail vehicle charged out at a different fare or fares from another category of passenger accommodation in the same rail vehicle or train;

"contrast" means contrast in the amount of light reflected;

"Department" means the Department for Regional Development;

"display" means a screen fitted to the exterior or interior of a rail vehicle which is used to indicate the destination or route number of a rail vehicle, or make other visual announcements, which forms part of a public address system for visual announcements;

"exemption order" means an exemption order under section 47 of the Act from any relevant requirement;

"miniature railway" means a system of transport employing parallel rails which—

(a) provide support and guidance for vehicles carried on flanged wheels, and

(b) form a track of a gauge of less than 350 millimetres;

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

"operator", in relation to a rail vehicle, means the person having the management of that vehicle;

"passenger saloon" means that part of the interior of a rail vehicle provided for the accommodation of passengers, but does not include a toilet cubicle or a vestibule adjoining an exterior doorway;

"photocell device" means a device which operates using a combination of a beam of light, a transmitter and a receiver;

"priority seat" means a seat designated in accordance with paragraph 13 of Schedule 1;

"rail vehicle" means a rail vehicle constructed or adapted to carry passengers by rail;

"railway" means a system of transport employing parallel rails which—

(a) provide support and guidance for vehicles carried on flanged wheels; and

(b) form a track which is of a gauge of at least 350 millimetres;

"reference wheelchair" means an occupied wheelchair the dimensions of the chair and occupant being as shown in diagram A in Schedule 2;

"train" means two or more rail vehicles, coupled together;

"wheelchair-compatible doorway" means a passenger doorway in the side of a rail vehicle provided in accordance with paragraph 6 of Schedule 1;

"wheelchair-compatible toilet" means a passenger toilet provided in accordance with paragraph 16(1) of Schedule 1, with or without compliance with paragraph 16(1) (h);

"wheelchair space" means a space for a disabled person in a wheelchair which is provided in accordance with paragraph 18 of Schedule 1;

(**7**) SI 1978/1039 (N.I.9).

"width" means, when applied to a doorway or passageway, the unobstructed width of that doorway or passageway up to a height of 1400 millimetres above the door sill or floor, and "wide" is to be construed accordingly.

(2) In these Regulations a reference to the requirements of Part 1 of Schedule 1 means that Part as read with the diagrams referred to in it and shown in Schedule 2.

(3) The Interpretation Act (Northern Ireland) 1954 (**8**) shall apply to these Regulations as it applies to an Act of the Northern Ireland Assembly.

Rail vehicles first used after 31st December 1998

3.—(1) Subject to paragraph (2), this regulation applies to a rail vehicle first brought into use after 31st December 1998.

(2) This regulation does not apply to a rail vehicle which belongs to a class of rail vehicle —

(a) first brought into use before 1st January 1999; or

(b) first brought into use after 1st July 2008.

(3) Subject to paragraph (7), the requirements of Part 1 of Schedule 1 apply in relation to a rail vehicle to which this regulation applies.

(4) Subject to paragraphs (6) and (7), the requirements of Part 2 of Schedule 1 apply in relation to a rail vehicle to which this regulation applies—

(a) if and to the extent that it already conforms with them when these Regulations come into operation;

(b) if it is constructed pursuant to a contract entered into after 28th April 2014 and does not belong to a class of rail vehicle first brought into use before that date; or

(c) to the extent indicated in paragraph (6) if after 28th April 2014 any refurbishment work described in column (2) of the table in Schedule 4 is carried out to it.

(5) Where paragraph (4)(c) applies, those requirements of Part 2 of Schedule 1, which are indicated in column (3) of the table in Schedule 4 opposite the description of the refurbishment work, apply in relation to that work.

(6) Paragraph (4) (c) does not apply to refurbishment work which—

(a) only comprises like for like replacement;

(b) is required to be carried out by a contract in writing entered into before 28th April 2014; or

(c) is carried out in-house by the operator pursuant to an arrangement made in writing before 28th April 2014.

(7) Paragraphs (3) and (4) are subject to any exemption order which applies to the rail vehicle.

Rail vehicles first used, or belonging to a class first used, before 1st January 1999

4.—(1) Subject to paragraph (2), this regulation applies to a rail vehicle first brought into use—

(a) before 1st January 1999;

(b) after 31st December 1998 which belongs to a class of rail vehicle first brought into use before 1st January 1999; or

(c) after 31st December 1998 which is constructed or adapted to carry passengers on a railway and which does not conform with the requirements of Part 1 of Schedule 1 when these Regulations come into operation.

(**8**) 1954 c.33 (N.I.)

(2) This regulation does not apply to a rail vehicle which belongs to a class of rail vehicle first brought into use after 1st July 2008.

(3) Subject to paragraphs (4) and (8), where after 28th April 2014 and before 1st January 2020 any refurbishment work described in column (2) of the table in Schedule 3 is carried out to a rail vehicle to which this regulation applies, the requirements of Part 1 of Schedule 1, which are indicated in column (3) of that table opposite the description of that work, apply in relation to that work.

(4) Paragraph (3) does not apply to refurbishment work which—

(a) only comprises like for like replacement;

(b) is required to be carried out by a contract in writing entered into before 28th April 2014; or

(c) is carried out in-house by the operator pursuant to an arrangement made in writing before 28th April 2014.

(5) Subject to paragraph (8), on and after 1st January 2020 the requirements of Part 1 of Schedule 1 apply in relation to a rail vehicle to which this regulation applies.

(6) Subject to paragraphs (7) and (8), where after 28th April 2014 any refurbishment work described in column (2) of the table in Schedule 4 is carried out to a rail vehicle to which this regulation applies, the requirements of Part 2 of Schedule 1, which are indicated in column (3) of that table opposite the description of that work, apply in relation to that work.

(7) Paragraph (6) does not apply to refurbishment work which—

(a) only comprises like for like replacement;

(b) is required to be carried out by a contract in writing entered into before 28th April 2014; or

(c) is carried out in-house by the operator pursuant to an arrangement made in writing before 28th April 2014**.**

(8) Paragraphs (2), (5) and (6) are subject to any exemption order which applies to the rail vehicle.

Duty on operator of rail vehicles

5. An operator of a rail vehicle to which regulation 3 or 4 applies must not use it for the carriage of passengers unless any requirements made to apply in relation to it by regulation 3 or 4, as the case may be, are complied with.

Enforcement

6.—(1) It is the duty of the Health and Safety Executive for Northern Ireland (**9**) to make adequate arrangements for the enforcement of these Regulations.

(2) Subject to paragraph (5), the provisions of the 1978 Order specified in paragraph (3) (the "specified provisions") apply for the purposes of the enforcement of these Regulations as if in the specified provisions—

(a) a reference to the "enforcing authority" was a reference to the Health and Safety Executive for Northern Ireland;

(b) a reference to the "relevant statutory provisions" was a reference to these Regulations and to the specified provisions; and

(c) a reference to "health and safety regulations" was a reference to these Regulations.

(3) The provisions of the 1978 Order referred to in paragraph (2) are—

(**9**) Formerly known as the Health and Safety Agency for Northern Ireland which was established under Article 12 of the Health and Safety at Work (Northern Ireland) Order 1978 (S.I. 1978/1039 (N.I.9). Article 3(1) of the Health and Safety at Work (Amendment) (Northern Ireland) Order 1998 (S.I. 1998/2795 (N.I. 18) changed its name to the Health and Safety Executive for Northern Ireland.

(a) article 21 and 22 (appointment and powers of inspectors)(**10**) excluding section 22(3);

(b) article 23 and 24 (improvement and prohibition notices)(**11**);

(c) article 25 (provisions supplementary to sections 23 and 24)(**12**);

(d) article 26 (appeal against improvement and prohibition notices);

(e) article 28 (power to indemnify inspectors);

(f) article 30 (restrictions on disclosure of information)(**13**)

(g) articles 31(1)(c), (e) to (h), (j) to (o) and (2), 32(1)(c) and (2), 33, 34(1) and (2), 34 to 38 and 39(1) to (3) (provisions as to offences)(**14**); and

(4) The mode of trial and maximum penalty applicable to each offence listed in the first column of the following table are set out opposite each offence in the subsequent columns of the table.

Offence	*Mode of trial*	*Penalty on summary conviction*	*Penalty on conviction on indictment*
An offence under section 31(1) (c), (e), (f), (g), (j), (k), (l), (m) or (o)	Summarily or on indictment.	Imprisonment for a term not exceeding 3 months, or a fine not exceeding the statutory maximum, or both.	Imprisonment for a term not exceeding two years, or a fine, or both.
An offence under section 31(1) (h),	Summarily	Imprisonment for a term not exceeding 3 months, or a fine not exceeding level 5 on the standard scale, or both.	
An offence under section 31(1) (n).	Summarily	A fine not exceeding level 5 on the standard scale.	

(5) A failure to discharge a duty placed on the Health and Safety Executive for Northern Ireland by these Regulations is not an offence under section 31(1) (c) of the 1978 Order.

Revocation and transitional provisions

7.—(1) The Rail Vehicle Accessibility Regulations (Northern Ireland) 2001 (**15**) are revoked.

(**10**) Article 22(7) was amended by the Civil Partnership Act 2004 (c. 33), section 261(3) and Schedule 29, paragraph 7.
(**11**) Article 24(1) and (2) was amended by the Consumer Protection (Northern Ireland) Order 1987 S.I. 1987/2049 (N.I.20), Article 28 and Schedule 2, paragraph 3. Article 24(3) was substituted by S.I. 1987/2049 (N.I. 20), Article 28 and Schedule 2, paragraph 3.
(**12**) Article 25(5) was amended by the Fire and Rescue Services (Northern Ireland) Order S.I. 2006/1254 (N.I. 9), Articles 1(3) and 63(1) and Schedule 3, paragraph 11.
(**13**) Article 30(1) (a) was amended by S.I. 1987/2049 (N.I. 20), article 28 and Schedule 2, paragraph 6. Article 30(3) (a), 30(4) and 30(5) (a) were amended by the Health and Safety at Work (Amendment) (Northern Ireland) Order 1998 No.2795 (N.I. 18), Article 6 and Schedule 1, paragraph 8
(**14**) Article 31(1)(h) was amended by the Consumer Protection (Northern Ireland) Order 1987 S.I. 1987/2049 (N.I. 20), Article 28 and Schedule 2, paragraph 7. Article 31(1)(m) was amended by the Criminal Justice (Northern Ireland) Order 1986 No. 1883 (N.I. 15), Article 9. Article 31(2) and (3) were substituted for Article 31(1A) to (5) by the Health and Safety (Offences) Act 2008 (c.20) s. 1(3) and (4).
(**15**) S.R. 2001/264