

# DISABILITY DISCRIMINATION ACT 2005

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### *Section 7: Rail vehicles: accessibility compliance certificates*

84. This section inserts new sections 47A to 47C into the DDA, the effect of which will be to require prescribed rail vehicles to have a rail vehicle accessibility compliance certificate. It is intended that the requirement to have a certificate will apply to all new rail vehicles and vehicles that are refurbished. It also makes consequential amendments to sections 49 of the DDA (forgery and false statements) and 68(1) of the DDA (interpretation). The effect of these new sections, and corresponding changes to existing provisions, is to set up a RVAR certification scheme. The provisions include power for the Secretary of State to make regulations providing for the appointment of independent assessors who will be responsible for checking regulated rail vehicles for compliance against each RVAR requirement to which that vehicle is required to conform. They also empower the Secretary of State to make regulations setting out the procedure for obtaining certificates, including provisions for assessors to charge fees, and a mechanism for disputes between assessors and applicants for certificates to be referred to the Secretary of State. It is expected that for most rail vehicles (excluding trams and light rail systems) the RVAR compliance assessment will generally be carried out by the 'notified bodies' with responsibility for assessing vehicles under the high speed interoperability regime (Directive 96/48/EC, implemented by S.I. 2002/1166). The assessment of vehicles for RVAR compliance will be an integral part of the work of notified bodies in checking against the technical standards applied under that Directive.

#### **New section 47A: Rail vehicle accessibility compliance certificates**

85. Section 47A(1) prohibits a regulated rail vehicle from being used for carriage unless a valid compliance certificate has been issued for that vehicle. It should be noted that this subsection applies only to vehicles prescribed in regulations made under subsection (2).
86. Subsection (2) is a regulation-making power which enables the Secretary of State to prescribe vehicles which will require a certificate. If, as intended, the power is exercised to prescribe new rail vehicles and rail vehicles that are refurbished, the power will also enable regulations to set a date from which time those vehicles will have to be certified.
87. Subsection (3) describes a rail vehicle accessibility compliance certificate. A certificate's purpose is to indicate that the Secretary of State is satisfied that a rail vehicle is compliant with those provisions of RVAR with which it is required to conform. The provisions with which vehicles are required to conform will be prescribed in the RVAR, including different requirements in the case of refurbished vehicles where, depending on the extent of the refurbishment work, not all the provisions may apply.
88. Subsection (4) provides a general power to enable certificates to be made subject to conditions. For example, an operator could be required to inform the Secretary of State if there was a change in the operating company or if the vehicle was used on a different service.

89. Subsections (5) and (6) make provision in respect of the refusal of the Secretary of State to issue a certificate. An applicant can ask the Secretary of State, within a timescale to be set in regulations, to review his decision. A fee can be charged for such a review. The Secretary of State must review the decision taking into account any written representations submitted by the applicant within the timescale set in regulations.

**New section 47B: Rail vehicle accessibility compliance certificates: supplementary**

90. Section 47B(1) empowers the Secretary of State to make regulations with respect to compliance certificates, and other subsections set out examples of the provisions that may be included in such regulations. These relate in particular to the procedure relating to the application for and granting of certificates, and the conditions to which they may be made subject, together with provisions as to who may apply, and in what form.
91. Subsection (3)(c) enables regulations to specify the information that is to accompany an application for a certificate. In particular, the regulations may require an application to be accompanied by a report of a compliance assessment. Subsection (4) defines a “compliance assessment” as being an assessment of a rail vehicle against those provisions of RVAR with which it is required to conform. Subsection (5) stipulates that the regulations may provide for such assessments to be carried out by a person appointed by the Secretary of State, known as an “appointed assessor”.
92. Subsection (6) applies in the event that regulations under subsection (1) do in fact require that an application for a certificate be accompanied by a report of a compliance assessment carried out by an appointed assessor. It provides that regulations made under subsection (1) may include provisions about the appointment by the Secretary of State of appointed assessors and, under subsection (6)(b), the regulations may make provision for such assessors to charge fees in connection with their work in compiling a compliance assessment or a pre-assessment. Subsection (6)(d) requires the regulations to include provision for referral to the Secretary of State of any dispute between an appointed assessor and a person who requested a compliance assessment about what provisions of RVAR a vehicle should be assessed against or whether or not a vehicle complies with any particular requirement of RVAR.
93. Subsection (7) defines “compliance assessment” in subsection (6)(b) to (d) as including pre-assessment work, for example, giving an advance opinion on the final compliance of a new design feature. This will enable prospective applicants for compliance certificates to obtain a view from an appointed assessor as to the likely compliance of a particular design before embarking on the construction of the feature.

**New section 47C: Rail vehicle accessibility compliance certificates: fees**

94. Section 47C(1) empowers the Secretary of State to make regulations prescribing that fees should be charged for the carrying out of certain administrative tasks relating to the issuing of compliance certificates. Subsection (2) stipulates that any fees received by the Secretary of State under subsection (1) must be paid to the Consolidated Fund. Before making such regulations, the Secretary of State must consult representative organisations.
95. [Section 7\(2\)](#) inserts into section 49 of the DDA a new subsection (1)(e) and amends subsection (4). The effect of these amendments is to make it a criminal offence for a person, with intent to deceive, to forge, alter, use, lend, or allow another person to use a rail vehicle accessibility compliance certificate, or to make or have in his possession a document which resembles such a certificate. The amendment to section 49(4) makes it an offence to knowingly make a false statement in order to obtain a rail vehicle accessibility compliance certificate.