

ACCOMPANYING NOTE TO

THE RAIL VEHICLE ACCESSIBILITY (NON-INTEROPERABLE RAIL SYSTEM) (LONDON UNDERGROUND BAKERLOO LINE 72 STOCK) EXEMPTION ORDER 2025

1. Overview of the Instrument

What does the Order do?

1.1 The Rail Vehicle Accessibility (Non-Interoperable Rail System) (London Underground Bakerloo Line 72 Stock) Exemption Order 2025 (“the Order”) exempts the 252 rail vehicles known as the London Underground Bakerloo Line 1972 Stock (“the 72 Stock”) on the line known as the Bakerloo Line operated by London Underground Limited (“LUL”) from certain requirements of the Rail Vehicle Accessibility (Non-Interoperable Rail System) Regulations 2010 (“RVAR 2010”).

2 Policy Context

What is being done and why?

2.1 This Order exempts the 72 Stock from the accessibility requirements in the RVAR 2010 with which the vehicles do not comply, as detailed in, and for the time period set out in, paragraph 2.6 below.

2.2 This exemption applies to the following vehicles:

Driving Motor (DM) cars, 107 vehicles:

3231-3248, 3250-3256, 3258-3267 & 3299,

3331-3348, 3350-3356, 3358-3367,

3531-3538, 3540-3567.

Trailer (T) cars, 108 vehicles:

4231-4248, 4250-4256, 4258-4267 & 4299,

4331-4348, 4350-4356, 4358-4367 & 4399,

4531-4538, 4540-4567.

Non-Driving Motor (NDM) cars, 37 vehicles:

3431-3438, 3440-3467 & 3399.

This total of 252 vehicles are operated as 7-car trains, each comprising a 4-car unit (DM-T-T-DM) and a 3-car unit (NDM-T-DM). The vehicles were built 1972-1974, with the initial batch (numbers xx64-xx67) designated ‘Mark 1’, to distinguish them from a subsequent build of ‘Mark 2’ vehicles, with which they are operationally compatible but not technically identical.

2.3 The 72 Stock was designed and built, and underwent refurbishment (1991-1995), prior to the introduction of the Rail Vehicle Accessibility Regulations 1998. From 2016 to 2018 the 72 Stock was subject to remedial work for corrosion, to

enable the trains to remain in service until their replacement in 2035, as then forecast. In 2019 LUL embarked on a 72 Stock RVAR upgrade programme with the aim of improving, where feasible, features that were not compliant with RVAR requirements. The measures to address these non-compliances include provision of doorway and door sill colour contrast, doorway grab poles, and audible and visual announcements. An exemption order made in 2019 came into force on 1 January 2020 (the point at which all vehicles were required to be compliant), and had an expiry date coincident with the upgrade programme, as scheduled at the time, which was 1 January 2024.

2.4 The upgrade programme progressed more slowly than anticipated (due to the Covid 19 lockdown, supply delays, and technical challenges on 50-year old vehicles). This 2025 order replaces the 2024 expiry date with LUL's current scheduled end of the programme, which is 31 December 2029. Elimination of non-compliances accepted as not technically feasible or economically sensible are granted exemption for an indefinite period.

2.5 A new non-compliance has unavoidably arisen concerning part of the route between the wheelchair-compatible doorway and the newly created wheelchair space. The route is immediately above the vehicle underframe, which cannot be altered, creating a small area where the floor gradient exceeds the maximum permitted in the 2010 Regulations.

2.6 The vehicles that are being exempted by the Order do not meet the following requirements at Part 1 of Schedule 1 to the RVAR 2010, and are the subject of time-limited or permanent exemption in the Order, as indicated below:

- (a) paragraph 1(1) When a wheelchair-compatible doorway in a rail vehicle is open at a platform at a station, a boarding device must be fitted by the operator between that doorway and the platform, if a disabled person in a wheelchair wishes to use that doorway, where the gap between the edge of the door sill of the wheelchair-compatible doorway and the platform is more than 75 millimetres measured horizontally or more than 50 millimetres measured vertically. The exemption is for the platforms named in the Schedule to this Order and expires on 31 December 2029, when LUL's RVAR upgrade programme will be completed;
- (b) paragraph 6(5) The route between a wheelchair-compatible doorway and a wheelchair space must - (a) not have a step, or a slope with a gradient exceeding (i) five per cent; or (ii) provided the slope does not exceed 2000 millimetres in length, eight per cent; as measured when the vehicle is on a straight and level track: Exemption for an indefinite period;
- (c) paragraph 8(2) The floor of a vestibule to a passenger doorway in the side of a rail vehicle must contrast with the adjoining floor of the passenger saloon of the vehicle: Exemption extended to 31 December 2029, when LUL's RVAR upgrade programme will be completed;
- (d) paragraph 8(6) At a passenger doorway in the side of a rail vehicle the floor must have a band of single colour running parallel with the full width of the entrance - (a) not less than 50 millimetres and not more than 100 millimetres wide; (b) the edge of which furthest from the entrance must not be more than 100 millimetres from the edge of the floor at the entrance; and (c) which contrasts with the

adjoining floor surface: Exemption extended to 31 December 2029, when LUL's RVAR upgrade programme will be completed;

- (e) paragraph 10(1) A handrail must be fitted in the following positions - (a) in every rail vehicle, on the inside as close as practicable to, and on either side of, the passenger doorways in the side of the vehicle, extending vertically from a point not more than 700 millimetres above the floor to a point not less than 1200 millimetres above the floor. The exemption only applies provided that where the doorway has a single door there is a handrail on one side of the doorway: Exemption for the life of the vehicles, i.e. until the 72 Stock is permanently removed from passenger service;
- (f) paragraph 10 (4) Any passenger handrail fitted in or to a rail vehicle must comply with the following requirements - (a) it must have a circular cross section with a diameter of not less than 30 millimetres and not more than 40 millimetres. The exemption only applies that provided that the handrail has a circular cross section with a diameter of not less than 28.40 millimetres and not more than 40 millimetres. Exemption for an indefinite period;
- (g) paragraph 11(1) The interior of a rail vehicle must be fitted with a public address system for audible and visual announcements: Exemption extended to 31 December 2029, when LUL's RVAR upgrade programme will be completed;
- (h) paragraph 11(5) Whilst a rail vehicle is stationary at a station or stop any public address systems required to be fitted inside the vehicle, and on its exterior, must be used to announce the destination of the vehicle or, if it is following a circular route, the name or number of the route and, in the case of systems inside the vehicle only, to announce the next stop: Exemption for an indefinite period;
- (i) paragraph 18(4) Where a train consists of the number of rail vehicles shown in a row of column A of the following table that train must have at least the number of wheelchair spaces shown in column B [of the table set out below paragraph 18(4)]: Exemption extended to 31 December 2029, when LUL's RVAR upgrade programme will be completed.

3. Legislative and Legal Context

3.1 Section 182 of the Equality Act 2010 ("EA 2010") enables the Secretary of State to make rail vehicle accessibility regulations to ensure that rail vehicles to which the regulations applied ("regulated rail vehicles") conform to requirements which enable disabled persons, including wheelchair users, to access such vehicles and to travel in safety and reasonable comfort.

3.2 The Secretary of State made the RVAR 2010 pursuant to section 182 of the EA 2010, which applies to all passenger vehicles on light rail systems such as tramways and the London Underground, and made provision as to the construction, use and maintenance of regulated rail vehicles.

3.3 Section 183 of the EA 2010 enables the Secretary of State to exempt certain regulated rail vehicles by Order from the requirements of the RVAR 2010, and to authorise the use of such vehicles in passenger service even though they do not conform to the requirements of the RVAR 2010. In accordance with section 183 of the EA 2010, exemption orders can include conditions and restrictions.

3.4 The Order is an exemption order made under section 183 of the EA 2010 and in exercise of the Secretary of State's power in section 183(4)(a) as the Order is being made in the terms of the application for the order. The Order is being made to exempt the vehicles identified in paragraph 2.2 from the requirements set out in paragraph 2.6.

3.5 Following the amendment of section 183 of the Equality Act 2010 by the Deregulation Act 2015, which inserted paragraph (7) into section 183, exemption orders do not need to be made 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 EA 2010.

4. Consultation

Summary of consultation outcome and methodology

4.1 In accordance with section 183(4) of the EA 2010, DfT consulted with the Disabled Persons Transport Advisory Committee ("DPTAC"), the Office of Rail and Road ("ORR"), Transport Focus, London TravelWatch and with the public via www.gov.uk/government/consultations. This consultation was carried out by making available LUL's exemption application dated February 2024, and allowing four weeks, from 29 February 2024 to 28 March 2024, for responses. No objections to the application were received.

4.2 DPTAC suggested measures to take, should the order be made.

4.3 ORR responded with no objection to the granting of the exemption, both on the grounds of safety and of their ability to use its regulatory powers for matters not exempted.

4.4 Transport Focus were happy to support the London TravelWatch comments.

4.5 London TravelWatch accepted the reasons for requesting the exemptions responded.

4.6 There were no comments made as a result of the public consultation.

4.7 The consultation responses, with the applicant's response to the consultation responses, can be found in full at Annex A below.

Is there an impact assessment?

5.1 An Impact Assessment has not been prepared for this instrument due to the small nature of the impacts. The Order will enable the 72 Stock to continue to provide services for the benefit of those who use them and will not impose any costs on London Underground.

6. Contact

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

Annex A – Stakeholder Consultation responses

London TravelWatch

15 March 2024

Having carefully reviewed the two request documents, London TravelWatch understands, and accepts, the reasons for requesting the exemptions.

We note that upgrades to the existing rolling stock is not expected to complete until 2029. We would urge for any possibility that that timeframe could be brought forward.

We hope too that all affected Bakerloo line stations will be earmarked for potential future improvements. We also support the introduction of new trains for the Bakerloo line when funding permits and would welcome any indication of when TfL expect to begin replacing the current fleet with a new fleet.

Trevor Rosenberg
Policy and Advocacy Officer

TfL response, 16 April 2024

Thank you for your support. London Underground (LU) remains focussed on doing all we can to upgrade our existing rolling stock. To date, LU has fitted wheelchair bays on a third of our fleet and will continue to look for opportunities to bring forward the timeframe.

The fleet replacement Bakerloo line Upgrade (BLU) programme is being actively progressed with the work currently at a feasibility stage, however, implementation will be subject to available funding. Infrastructure modifications will be limited to those required to enable the introduction of new rolling stock, with the scope expected to be confirmed in 2025.

Transport Focus

19 March 2024

We are aware of the attached email submitted to the department by London TravelWatch, in response to LUL's requested exemption. Given that London Underground typically falls outside of our remit, we are happy to support the comments they have made and do not wish to submit any of our own.

Dan Taylor
Senior Policy Advisor

Disabled Persons Transport Advisory Committee (DPTAC)

2 April 2024

Thank you for inviting DPTAC to comment on this RVAR Exemption Application.

DPTAC understand from the supporting information supplied that this LUL Bakerloo Line dispensation request relates to a further extension following dispensations previously granted in 2019.

We understand that this first dispensation was granted on the understanding that RVAR compliance of the non-compliant fleet and stations on the LUL Bakerloo Line would comply with RVAR by January 2024.

DPTAC note that a further extension has now been requested until 2029. This is disappointing, and it needs to be noted that the number of non-compliant fleet and stations is not inconsiderable. The impact of this on disabled users of the LUL Bakerloo Line as a result of this must be significant.

In acceptance that that the delays to the original deadline of 2024 are due to a range of reasons, DPTAC suggest that should the Secretary of State agree to extend the current dispensation request to 2029, the following measures form part of conditions attached to any extension:

1. DfT closely monitor progress and set measures in place to ensure that further fleet and station RVAR compliance upgrade work slippage does not occur.

TfL response, 16 April 2024

London Underground is committed to regularly reporting to the DfT including Independent Disability Advisory Group (IDAG) and London TravelWatch to monitor progress and ensure appropriate dialogue until full compliance is achieved.

2. A suggestion is also made that LUL make every effort to accelerate the upgrade programme in order to achieve compliance in advance of 2029.

TfL response, 16 April 2024

London Underground fully appreciate the benefit to customers of delivering this work and where possible will seek to improve on the 2029 date. However, the delivery is challenged by the availability of funding and modification of fifty year old trains.

3. DPTAC note that LUL state the following in their dispensation request: "Replacement with a fleet of compliant new-build vehicles is anticipated, but not yet defined with a timescale". We suggest that prior to any consideration to grant an extension, DfT ask LUL to confirm when this would be in order to help mitigate any further post 2029 dispensation extension requests on the LUL Bakerloo Line.

TfL response, 16 April 2024

The Bakerloo line Upgrade (BLU) programme intends to replace the Bakerloo line fleet of 36 trains using a time limited option for fleet replacement in the 2018 rolling stock contract with Siemens Mobility Limited, which is currently being used to replace the Piccadilly line fleet. This programme is currently at a feasibility stage, so a detailed programme and delivery strategy is still being developed. At present, the programme is unfunded beyond the end of financial year 24/25 with TfL continuing to make the case to HM Government for adequate longer term funding which should enable commitment to the delivery of BLU and certainty over dates within the programme.

4. That DfT consider original DPTAC feedback in respect of the first dispensation request in light of the following:

Check LUL action following DPTAC feedback in 2019 to ascertain to what extent recommendations were implemented and effectiveness of these to help mitigate adverse impact on disabled LUL Bakerloo Line passengers;

TfL response, 16 April 2024

Since 2019, London Underground has introduced a range of accessibility improvements for our customers. This includes accessibility travel information, staff training, and engagement with local, pan-London and national organisations representing disabled people. LU adopted the 'Pimlico Principle'* approach for platform-train interface (PTI) across the network and will look into safe and feasible PTI schemes as part of the replacement fleet.

*This is based on a precedent set at Pimlico station, which does not have any access to platform level or interchange by step-free routes. If the Platform Train Interface (PTI) was made compliant, some passengers would still be unable to leave the platform to make onward journeys without step-free access from platforms to street level.

and

- Check if any accessibility related complaints have been received by LUL in respect of RVAR non-compliance on the Bakerloo Line since the first dispensation was granted in 2019.

TfL response, 16 April 2024

London Underground has received two complaints made in the past years** regarding the lack of handrails to help disabled passengers to transition between the train and the platform edge safely. Nine other complaints related to step-free access from station to platforms, in particular to lifts and escalators, were received over the past two years.

** Information is extracted from raw data between 2021-2023 which relates to accessibility. It covers commendation, safety, injuries, complaints and feedback. Extraction method is via an automated redacted tool to remove sensitive information according to GDPR. Noting all information is manually recorded by customer service agents and have margins of error.

Dave Partington MBE

DPTAC Rail Working Group Chair

Office of Rail and Road (ORR)

4 April 2024

I apologise for missing your deadline.

Thank you for consulting us on the proposed exemption for Bakerloo Line 1972 Tube Stock trains. We understand that the exemption perpetuates the existing order that has expired, with the addition of elements relating to boarding devices at Queens Park and to the gradient between door and wheelchair space. We have no objection

to the granting of the exemption as described below, both on the grounds of safety and of our ability to use our regulatory powers for matters not exempted.

Giles Turner
Head of Interoperability and Rail Vehicle Engineering

Public consultation

None