

Consultation: Regulation (EC) No. 1371/2007 Rail Passengers' Rights and Obligations

October 2014

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Foreword

The Government is committed to raising standards for rail passengers across the country. Passenger numbers are at record high levels and this is why over the next five years more than £38 billion will be spent on the railways to increase the capacity and quality of the railway network, so that train operators can improve services, cope with rising demand and maintain a reliable service that is among the safest in Europe.

The Government seeks to do this in a way that secures the maximum benefit to fare payers and taxpayers. Currently the Government is seeking to use the franchising programme to drive up standards for rail passengers, while at the same time securing cost efficiency savings that can then be passed onto farepayers and taxpayers.

We have seen significant improvements in recent years in the level of service provided to rail passengers in Great Britain. This has come about both as a result of the franchising programme and also as a result of action taken by the rail industry itself.

As a general principle, we seek to use regulation only where market and other incentives are insufficient to secure the improved services. For that reason, the Government has an overarching policy of reducing the regulatory burden, including legislation arising from the EU, on UK businesses.

The EU Passengers' Rights and Obligations Regulation sets out a number of obligations which the rail sector must comply with in full by 2024. The aim of this consultation is to gather evidence to enable us to gain a better understanding of where the rail industry is already meeting or exceeding the EU standards, and to help us identify where we may be able to bring certain provisions into force earlier than the 2024 deadline required by the EU regulations.

No final decision has been taken on the questions/issues covered in this consultation document. By taking part you are providing valuable evidence to help shape our decisions, and the direction of the rail industry in this area.

A handwritten signature in blue ink, consisting of a large 'C' followed by a stylized 'P' and a long horizontal line extending to the right.

Claire Perry MP
Parliamentary Under Secretary of State

How to respond

The consultation period began on 14th October and will run until 23 December 2014. Please ensure that your response reaches us before the closing date. If you would like further copies of this consultation document, it can be found at <https://www.gov.uk/dft#consultations>

Please complete the on line questionnaire or please complete the consultation response template provided and send it as an attachment by email to RailPROconsultation@Dft.Gsi.Gov.Uk . You can also send your completed response template by post to Frances Soames, Department for Transport, 4/27, 33 Horseferry Road, London SW1P 4DR.

Freedom of Information

Information provided in response to this consultation, including personal information, may be subject to publication or disclosure in accordance with the Freedom of Information Act 2000 (FOIA) or the Environmental Information Regulations 2004.

If you want information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence.

In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information, we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

The Department will process your personal data in accordance with the Data Protection Act (DPA) and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

Glossary

ACoP = Approved Code of Practice

ATOC = Association of Train Operating Companies

CAHA = Claims Allocation and Handling Agreement

CHP = Complaints Handling Procedure

CIRSRT = Computerised Information and Reservation System for Rail Transport

CIV = The Uniform Rules concerning the Contract for International Carriage of Passengers and Luggage by Rail

COTIF = Convention Concerning International Carriage by Rail of 9 May 1980 as amended by the Vilnius Protocol of 3 June 1999

DPPP= Disabled People's Protection Policy

DPRM = Disabled Persons and Persons with Reduced Mobility

ERA = European Railway Agency

EU = European Union

IA = Impact Assessment

LTW = London TravelWatch

NRCoC = National Rail Conditions of Carriage

NRE - National Rail Enquiries

NRPS = National Rail Passenger Survey

ORR = Office of Rail Regulation

PF = Passenger Focus

PIDD = Passenger Information During Disruption

PIS - Passenger Information System

PRM TSI = Technical Specification of Interoperability for Persons with Reduced Mobility

PRO = Regulation (EC) No 1371/2007 on Rail Passengers' Rights and Obligations

RU = Railway Undertaking

RVAR = Rail Vehicle Accessibility (Non-Interoperable Rail System) Regulations 2010

SI = Statutory Instrument

SNRP = Statement of National Regulatory Provisions

SQMS = Service Quality Management Systems

TAP TSI = Telematics applications for passengers Technical Specification of Interoperability

TEN = Trans - European Networks

TOC = Train Operating Company

TSI = Technical Specification of Interoperability

1. Introduction

1.1 In 2007 the European Parliament and the Council agreed Regulation (EC) No 1371/2007 on rail passengers' rights and obligations¹ ('the PRO'). The PRO was designed to align and strengthen passengers' rights and obligations across the EU by building on the existing regime that applies to international rail journeys (CIV)².

1.2 The PRO establishes minimum standards in the following areas:

- Information to be provided by railway undertakings, the conclusion of transport contracts, the issuing of tickets and implementation of a computerised information and reservation system for rail transport;
- Liability of railway undertakings and their insurance obligations for passengers and their luggage;
- Obligations of railway undertakings to passengers in the event of delay, missed connections and cancellations;
- Protection of and assistance to disabled persons and persons with reduced mobility("DPRMs") travelling by rail;
- Definition and monitoring of service quality standards, the management of risks to the personal security of passengers and the handling of complaints; and
- General rules on enforcement.

1.3 The PRO consists of "core" Articles³ which have applied to the UK's domestic and international rail transport services since December 2009. The PRO does not apply to railway undertakings and transport services that are not licensed under Directive 2012/34/EU establishing a single European railway area (recast) however⁴.The exceptions from the EU

¹ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32007R1371&qid=1396009066286&from=EN>

² The Uniform Rules concerning the Contract for International Carriage of Passengers and Luggage by Rail (CIV) Appendix A to the Convention concerning International Carriage by Rail (COTIF) of 9 May 1980 as amended by the Vilnius Protocol of 3 June 1999

³ PRO Article 2(3)

⁴ PRO Article 2(2)

licensing regime include local and regional standalone infrastructure and urban or suburban rail passenger services⁵. This means the PRO does not apply to, for example, metros including London Underground and Glasgow subway, trams and tramways including the Greater Manchester Metrolink and heritage and tourist infrastructure and vehicles. "RVAR" services are also out of scope (see Annex C paragraph 1.6).

- 1.4** Member States have the power under the PRO to exempt domestic rail passenger services from the "non-core" articles for up to 5 years. This power can be renewed twice for a maximum period of 5 years on each occasion, culminating in a total period of 15 years⁶.
- 1.5** In December 2009, the Government exercised this power to exempt Great Britain's domestic railways from all of the non-core Articles for a period of five years. The Statutory Instrument (SI) that provides this exemption remains in place until 4 December 2014. At this point the exemption will expire, and all the Articles of the PRO will automatically come into effect, unless exemptions are renewed through a further SI.
- 1.6** The Government is taking the step of introducing an SI by December 2014 to renew the current exemptions in full for a further five years to December 2019, while consulting in parallel on options for removing some or all of these exemptions in 2015.
- 1.7** The Government is taking this step to provide sufficient time for thorough consideration of the options available for removing exemptions, while retaining maximum flexibility to respond to issues raised by the organisations and individuals consulted. Depending on the outcome of this consultation, the Government would then introduce a further SI in 2015 to remove the relevant exemptions with immediate effect.

⁵ Regulation 4(2) of the Railway (Licensing of Railway Undertakings) Regulations 2005

⁶ PRO Article 2(4)

2. Aim of the consultation

- 2.1** This consultation seeks views from stakeholders on options for removing domestic exemptions from 2015 onwards.
- 2.2** Progress has been made by the rail industry in meeting a number of the PRO requirements during the period 2009 to 2014. However, in other areas we believe further work is still required to align domestic practice with EU rules.
- 2.3** The PRO requires that Member States are fully compliant with its requirements by 2024. This consultation looks to gather information on where the industry is currently exceeding or meeting the PRO standards, in order to identify where it might be possible to remove exemptions early, ahead of the 2024 deadline, or where further work is needed,.
- 2.4** When deciding on which exemptions to remove, we want to ensure the right balance is struck between the benefits this would give passengers, the impact on the rail industry and its ability to meet the requirements of the PRO from 2015 onwards, and Government's wider commitments to the principles of better regulation.
- 2.5** Wherever possible, we want to improve the alignment between EU rules and domestic requirements in Great Britain, ensure rail passengers get a better deal, while at the same time avoiding imposing unnecessary or disproportionate costs to the rail industry and UK taxpayers
- 2.6** Broadly we are considering the following options for the 2015-2019 period:
- Maintain the current PRO exemptions in full. This would be the "do nothing" option and provides the baseline against which other options are assessed;
 - Remove exemptions where we believe that these are already being met. There would be no additional compliance cost to the rail industry, but this would prevent backsliding on any current benefits to passengers;

- Remove exemptions where we believe there would be costs but these would be outweighed by benefits to passengers. This could include not renewing any of the exemptions or only renewing some of them.
- 2.7** Through early evidence gathering and analysis we have formed some initial views on the potential impacts and benefits of removing certain current exemptions. These are outlined later in this document, and we want to test these assumptions out in this consultation exercise.
- 2.8** This consultation covers implementation of the PRO in Great Britain only. The Northern Ireland Department for Regional Development will consult on and enact separate legislation to cover implementation in Northern Ireland.

Context

- 2.9** This consultation is only concerned with the twenty-one non-core Articles of the PRO which are grouped into five broad categories:
 - Transport Contract, Information and Tickets;
 - Liability of Railway Undertakings For Passengers and their Luggage;
 - Delays, Missed Connections and Cancellations;
 - Disabled Persons and Persons with Reduced Mobility
 - Security, Complaints and Quality of Service.
- 2.10** As a general principle, the Government's position when implementing European Regulations is to make full use of available derogations which would reduce costs to business. Renewing the existing exemptions in December will impose no additional cost to business as it preserves the status quo. However we believe there is scope to remove some exemptions (either in part or in full) in line with the Coalition Government's Better Regulation policy where they are no longer serving a purpose.
- 2.11** Since 2007, there have been a number of improvements to industry practice that have benefitted passengers. For example more train operators have moved to improved Delay/Repay compensation schemes that go beyond the requirements of the PRO. There have been improvements in Passenger Information During Disruption (PIDD) through

a Code of Practice⁷ agreed with the ORR and it has recently been announced that this will be strengthened and improved, including key measures on increasing passenger awareness of their compensation rights⁸

Structure of consultation document

- 2.12** The remainder of the document from sections 3-8 outlines the Department's detailed consideration of the Articles under the themes set out in paragraph 2.8 For each Article the following structure has been used:
- 2.13 PRO requirements and benefits.** A summary of the Article and the benefits for passengers.
- 2.14 Current compliance in Great Britain.** Exploring whether there are any existing laws, regulations or arrangements that meet the EU rules. We have also indicated if there are potential costs for full compliance where the domestic regime is not yet fully aligned with the PRO standards (some estimates of those costs can be found in the impact assessment).
- 2.15 Preferred approach.** The Department's proposed position on whether or not to remove an exemption.

Responding to this consultation

- 2.16** We would welcome feedback on the various Articles and the implications in terms of costs and benefits to passengers, bearing in mind that the PRO will apply in full from December 2024, when the power to grant domestic exemptions expires.
- 2.17** Consultees are invited to submit additional, detailed evidence on costs and benefits in response to this consultation document and the related Impact Assessment. **The response form should be used to provide your analysis of costs and benefits.**
- 2.18** It is important that wherever possible any evidence submitted is accompanied by the underlying data and analysis behind the calculations and key assumptions.

⁷ [http://www.atoc.org/clientfiles/files/ACOP015v3%20-%20PIDD%20\(2\).pdf](http://www.atoc.org/clientfiles/files/ACOP015v3%20-%20PIDD%20(2).pdf)

⁸ <http://orr.gov.uk/news-and-media/press-releases/2014/rail-industry-signs-up-to-plan-to-improve-passenger-information-during-disruption>, http://orr.gov.uk/data/assets/pdf_file/0004/14746/passenger-information-during-disruption-2014-09-22.pdf, and <http://www.raildeliverygroup.com/media-centre/press-releases/rdg-we-know-passengers-want-clear-accurate-and-timley-information/>

- 2.19** The only costs and benefits that should be represented are those that arise from the potential application of PRO articles in order to calculate only the cost/benefits attributable to the PRO.
- 2.20** The counterfactual (do-nothing) should include current industry practice, requirements and liabilities i.e. only the marginal cost/benefit of removing the exemptions for the specific articles should be accounted for. It should also be made clear whether costs are a one off or on a per annum basis.
- 2.21** Article 20(2) to Article 25 focus on requirements for DPRMs. We would specifically welcome responses from DPRM stakeholders, and others with an interest in accessibility and equality issues. In particular, we are interested in the benefits to passengers that may accrue as a result of removing these exemptions, as well as the impact of not doing so.
- 2.22** Some PRO articles also affect station managers (Articles 18(1), 21, 22, 24, 29) ticket vendors (Articles 8(1), 10, 20(2), 24) and tour operators (Articles 20(2), 24, 29). We would therefore like to gather further evidence of the potential impact on these sectors of removing exemptions.
- 2.23** Where the magnitude of marginal costs/benefits are described in this consultation document and impact assessment, the following terms should be used as a guide:
- Negligible - close to or equal to zero per annum
 - Small - costs/benefits less than £5m per annum
 - Medium - costs/benefits between £5m and £30m per annum
 - Large - costs/benefits over £30m per annum
- 2.24** These costs are for the industry sector as a whole. Where the magnitude of cost/benefit has not been included in the IA, it is because we have insufficient evidence at this stage. Quantitative (monetised) information and evidence on costs and benefits would be particularly welcome. We would also welcome comments and views on any cost effective and value for money approaches to meeting the PRO requirements.

3. Transport Contract, Information and Tickets

Article 4 Transport Contract

PRO requirements and benefits

- 3.1** Under Article 4 subject to more detailed rules in the PRO itself, the transport contract and the provision of travel information and tickets to passengers will be governed by Title II and Title III of CIV (see PRO Annex I).
- 3.2** Title II and III of CIV contain 20 Articles. The majority of these Articles are reflected in the current version of the National Rail Conditions of Carriage (NRCoC)⁹. However we have identified three key CIV Articles which go beyond the NRCoC:

CIV Article 7, 2 (a): "the carrier or carriers" must be entered on the ticket;

- 3.3** This Article requires Railway Undertakings to enter the "carrier, or carriers" on the ticket.

Current compliance in Great Britain

- 3.4** The requirement to enter the "carrier, or carriers" on the ticket goes beyond current industry practice. GB rail passengers currently benefit from open, inter-available tickets on certain routes that allow them to travel on the trains of any operator on that route. In this way the carrier is not determined until the passenger chooses to board a train.
- 3.5** Where passengers are restricted to a particular operator or route due to the terms of the ticket purchased, for example a passenger benefiting from a cheaper advance ticket, then industry practice is to include details of the specific carrier, and this is being made even clearer on new tickets being introduced.

⁹ <http://www.nationalrail.co.uk/static/documents/content/NRCOC.pdf>

- 3.6** The NRCoC¹⁰ also requires any train company receiving queries or complaints to redirect to the relevant operator, so although the identification of specific carriers is not strictly necessary within the current system, such inclusion may assist passengers in directing the issue to the relevant train operator in the first instance.
- 3.7** However, the lack of full alignment with the PRO means the industry will need to consider how the benefits of the existing system could be amalgamated in due course with the PRO.

CIV Article 7(4): "The ticket shall be transferable if it has not been made out in the passenger's name and if the journey has not begun";

- 3.8** This Article allows a passenger who has purchased a ticket that has not been made out in their name to transfer (sell/offer) the ticket to another traveller if they are unable to use it.

Current compliance in Great Britain

- 3.9** The NRCoC currently prevents the purchaser of a ticket from reselling or transferring that ticket for value unless permitted by the terms and conditions which apply to that ticket. However, the extent to which this can be enforced when the ticket has not been made out in the purchaser's name is unclear. On this basis the impact that prohibited ticket transfers currently has on revenue is uncertain, and we would welcome further evidence to inform our understanding.
- 3.10** The ability to transfer tickets that have not been made out in the passenger's name would only affect certain types of tickets sold in Britain. Season tickets for periods of a week, a month, or other periods up to one year¹¹ are only valid when accompanied by a relevant named photocard.¹² Such tickets would not be affected by this requirement.
- 3.11** Arrangements already exist to enable passengers to change rail tickets or obtain a refund prior to use (subject to an administration fee of up to £10). Nevertheless for the

¹⁰ Condition 63

¹¹ Photocards are required for all weekly season tickets except seasons issued on smartcards. Sales on smart media are currently very small and the any cost element is not relevant and can be designed out if the current exemption were not in place

¹² NRCoC Condition 15 Photocards. Some types of ticket (including many season tickets, tickets bought with a Railcard and Electronic Tickets) are only valid with either: a) a photocard showing a photograph which is a true likeness of the person for whom the ticket was issued; or b) another form of personal identification. If the use of a Season Ticket or Railcard requires you to carry a photocard, the Season Ticket (unless it is an Electronic Ticket) or Railcard must show the photocard serial number.

remaining ticket types where the passenger is not named on the ticket, there would be benefits to passengers of removing the exemption, through the additional flexibility this would provide. However, there could also be revenue implications for the rail industry due to increased levels of ticket transfer activity, which would ultimately also feed through to the taxpayer.

- 3.12** In particular, the commercialisation of ticket transferability, particularly via the internet, could create opportunities for arbitrage that may not ultimately be of benefit to passengers. For example, there is a risk a third party could buy up all of the cheaper advance fares for certain journeys and resell them at a higher price. This would undermine one of the key successes of the rail industry since privatisation: the growth of advance fares that provide passengers with opportunities for low cost travel on longer journeys.
- 3.13** Another risk is the commercial exploitation of the return legs of some off-peak return tickets. Currently the single ticket can be priced very close to the off-peak return price - as little as 10p difference. Without a restriction on the transfer of any remaining legs of such return tickets, these could be collected and resold for profit by a third party. In extreme circumstances this could significantly reduce train operator revenue and increase pressure on taxpayer support for the railways

CIV Article 11: "The carrier must, where necessary, certify on the ticket that the train has been cancelled or the connection missed."

- 3.14** This ensures that passengers will have cancellations or missed connections officially recorded on their train ticket, to enable them to travel on later, non-reserved services and assist with compensation claims and refunds.

Current compliance in Great Britain

- 3.15** Train operators already have information systems that allow staff to identify, without the need for a certified ticket, where there have been disruptions, cancellations or delays to a passenger's journey. This means that train operators are already able to help with the rescheduling of journeys, complaints, or claims for compensation.

- 3.16** With these systems in place we do not believe that CIV Article 11 would impose any extra burdens on train operators given that they are only required to certify tickets "where necessary".
- 3.17** The existing systems provide passengers with the full protection that this CIV article envisages while potentially avoiding an additional burden on staff which could distract them from other priority tasks at times of major delay and impact on customer services more generally.

Preferred Approach

- 3.18** The Government's preference is to remove restrictions on rail travel wherever possible where these deliver clear benefits to passengers. However, the risks to train operator revenue of the commercial exploitation of ticket transferability, and the consequential risk to both taxpayers and the potential impact on existing passenger benefits, remain of concern.
- 3.19** Our view at this stage is that these risks may outweigh the benefits of the removal of this exemption, though ongoing developments in ticketing, for example the introduction of new "smart" tickets or the more widespread use of single leg pricing, could change this in future. We would welcome further evidence on these points to inform our final view.
- 3.20** On CIV Article 11, we believe existing information systems enable train operators to already meet this requirement in practice and provide the benefits envisaged by the PRO. We would welcome further evidence to inform our final view.
- 3.21** The European Commission is seeking to adopt interpretive guidelines to facilitate the application of the PRO, and will be addressing a number of questions including explaining the relationship between the detailed rules in the PRO and CIV.
- 3.22** We believe the Commission's guidelines will provide clarity. Pending the adoption of the guidelines and taking into account the present risks of arbitrage arising from ticket transferability, we propose not to remove the current exemption for Article 4. Further information on costs and benefits can be found in the Impact Assessment.

Article 4 Transport Contract

Q. Do you agree with the proposal to maintain the exemption for Article 4? **Yes/No**

Q.(a) Besides the CIV article we have referred to, are there any other CIV articles (in PRO Annex 1 Title II and III) which may have additional costs to industry, or particular benefits for passengers, if the exemption is removed? **Yes/No**

In your responses please provide your rationale, having regard to impacts for passengers and additional costs to industry from:

- i) the CIV articles we have referred to; or
- ii) any additional CIV articles you have identified

Article 5 Bicycles on trains

PRO Requirements and benefits

3.23 This article requires that railway undertakings must allow passengers to bring bicycles on trains – but only if this does not adversely affect the rail service and if the rolling-stock permits. A charge may be made for carrying the bicycle.

Current compliance in Great Britain

3.24 Condition 48 of the National Rail Conditions of Carriage requires that train companies allow bicycles to be conveyed by train with the exception of a few routes.

3.25 Like the PRO, restrictions may be applied on certain days or at particular times, a charge may be applied and a reservation required

3.26 In practice, all bicycles are carried free of charge on GB domestic services (with the exception of some services for special events). Fully folded bicycles, with wheels up to a size of 20” in diameter, are carried without restriction on all trains.

3.27 National Rail Enquiries published a 2014 guide to cycling by train¹³, which contains information on the carriage of bicycles for all train operators and contains details of the individual restrictions that may apply to services.

¹³ <http://www.nationalrail.co.uk/posters/2014CycleLeafletv2.pdf>

3.28 In the Government's view, this suggests that domestic GB requirements and industry practice in relation to the carriage of bicycles are already in line with the PRO.

Preferred Approach

3.29 As passengers on domestic GB rail services already receive the full benefits from Article 5, the Government considers that the domestic regime and the PRO are in effect already aligned. As there appear to be no reasons for retaining this exemption, and no additional cost implications of removing it, we propose to remove the exemption for this Article. Further information on costs can be found in the Impact Assessment.

Article 5 Bicycles on Trains

Q. Do you agree with the proposal to remove the exemption for Article 5? **Yes/No.**

Please provide your rationale having regard to impacts and benefits for passengers and additional costs to industry.

Article 6 Exclusion of waiver and stipulation of limits

PRO requirements and benefits

3.30 The PRO provides that obligations under the PRO cannot be limited by a contract (in Great Britain, the NRCoC) between a railway undertaking and the passenger. However, it provides that railway undertakings can offer more favourable contract conditions to the passenger than the minimum required by the PRO. The aim of this provision is to set minimum standards across the EU in the areas covered by the PRO.

Current compliance in Great Britain

3.31 The NRCoC, which are drawn up by the Rail industry but must be approved by the Government, are the contract that rail passengers enter into when they purchase a ticket to travel on scheduled services on the National Rail Network. It is already the case that the NRCoC must meet the minimum standards in the PRO unless there is a specific domestic exemption in place. Were this not to be the case, the ORR as the enforcement body for the PRO would need to take action

otherwise the UK Government could ultimately face infraction proceedings.

3.32 The NRCoC are already updated periodically to reflect new industry practices or new regulatory requirements as these emerge. It should not therefore be burdensome to require the NRCoC to be updated to reflect any subsequent removal of PRO exemptions. Now that the NRCoC exists as an online document, and is not routinely printed, we believe that any costs would be limited to the administrative tasks of drafting and approving the required amendments and of updating the relevant web pages. We believe the additional costs to industry of complying with this requirement of the PRO would be negligible.

Preferred Approach

3.33 As the rail industry is already required to meet the minimum standards in the PRO (subject to any domestic exemptions granted under Article 2), there appear to be no reasons for retaining this exemption, and negligible additional cost implications of removing it. When the NRCoC is updated to reflect changes to the PRO, passengers are likely to benefit from having greater knowledge of their rights.

3.34 We propose therefore to remove the exemption for this Article. Further information on costs and benefits can be found in the Impact Assessment.

Article 6 Exclusion of waiver and stipulation of limits

Q. Do you agree with the proposal to remove the exemption for Article 6? **Yes/No**

In your response please provide your rationale having regard to impacts and benefits for passengers and any additional costs (e.g. administration costs) to industry.

Article 7 Provide public information regarding discontinuance of services

PRO requirements and benefits

3.35 This requires that advance notice must be given by railway undertakings to passengers regarding the discontinuance of services. Where this information may affect a passenger's journey they can then make alternative arrangements.

Current compliance in Great Britain

3.36 Requirements already exist to inform passengers of any discontinuation of services whether permanent as a result of a closure or timetable change or temporary due to planned or emergency engineering works. The railway closure process is set out in Part 4 of the Railways Act 2005 (the "Act") which mandates closure processes.

3.37 Sections 22 to 45 of the Act detail the statutory procedures concerning proposals to close parts of the passenger railway, be it services, network or stations. Generally there is a requirement for the appropriate national authority (either the Secretary of State or the Scottish Ministers) to carry out a public consultation on closures.

3.38 Schedule 7 to the Act also sets out that the consultation should be carried out in line with the "closures guidance" which describes the requirements for the assessment of a closure proposal, including what organisations should be consulted and where a notice should be published.

3.39 Following the public consultation, and an ORR closure ratification process, the closure decision is made public.

3.40 Operators are also required by their licences to provide appropriate, accurate and timely information to enable passengers to plan and make their journeys with a reasonable degree of assurance, including when there is a disruption. They must meet this objective to the greatest extent reasonably practicable having regard to all the relevant circumstances.

3.41 They must also participate in the timetabling process so that Network Rail can publish any changes to the timetable. Under existing franchise obligations there is a requirement to provide timely information to passengers and under new franchises a

requirement to consult with passengers on material changes to the timetable.

Preferred Approach

- 3.42** The domestic requirements already in place ensure that the public are made aware and consulted when decisions are being taken on whether to discontinue rail services.
- 3.43** Passengers already receive the benefits from Article 7 as the domestic regime and the PRO are aligned. There appear to be no additional cost implications. We therefore propose that the exemption for this Article is removed.
- 3.44** Further information on costs and benefits can be found in the Impact Assessment.

Article 7 Provide public information regarding discontinuance of services

Q. Do you agree with the proposal to remove the exemption for Article 7? **Yes/No**

Please provide your rationale having regard to impacts and benefits for passengers and additional costs to industry.

Article 8 Travel information

PRO Requirements and benefits

- 3.45** This places an obligation on railway undertakings and separately, ticket vendors working on their behalf, to provide (on request) specified information prior to travel. Additional information must be given during the journey by the railway undertaking. Ticket vendors working on their own account and tour operators must provide the same information where available. The specified information is listed below.

Article 8(1). Pre-Journey Information

- 3.46** Train operators and ticket vendors working on their behalf are required to provide specific pre-journey information to the passengers upon request. This includes:
- General conditions applicable to the contract;
 - Time schedules and conditions for the fastest trip;

- Time schedules and conditions for the lowest fares;
- Accessibility, access and availability of facilities for DPRMs;
- Accessibility and access conditions for bicycles;
- Availability of seats in smoking/non-smoking accommodation and in first class and second class as well as couchettes and sleeping carriages;
- Any activities likely to disrupt/delay services;
- Availability of on-board services;
- Procedures for reclaiming lost luggage;
- Procedures for the submission of complaints.

3.47 Ticket vendors working on their own account and tour operators must provide the same information where available

Article 8(2). Information during the journey.

3.48 Railway undertakings must also provide the following information during the journey:

- On-board services;
- Next station;
- Delays;
- Main connecting services; and
- Security and safety issues.

Article 8(3). Provision of information in an appropriate format.

3.49 Information provided before and during the journey shall be offered in the most appropriate format particularly for those with auditory or visual impairment.

Current compliance in Great Britain

Article 8(1). Pre-Journey Information.

3.50 The NRCoC¹⁴ set out the information that must be provided to passengers by train companies and ticket sellers. We believe this meets all of the PRO requirements on pre- journey information. National Rail Enquiries, Passenger's Charters

¹⁴ See "Your rights - a summary" page 3 of the NRCoC, <http://www.nationalrail.co.uk/static/documents/content/NRCOC.pdf>

and train operator websites also provide further information in a number of these areas.

Article 8(2). Information during the journey.

- 3.51** Under the NRCoC, train companies must also keep passengers informed during the journey about on-board services, station calling points and any delays that may affect their journey. This information is generally provided through Passenger Information Systems (PIS) or otherwise provided verbally by train staff.
- 3.52** Many audio visual PIS systems are already in place to comply with requirements under the Rail Vehicle Accessibility (Non-Interoperable Rail System) Regulations 2010 (RVAR) or the Technical Specification of Interoperability for Persons with Reduced Mobility (PRM TSI) (see Annex D). Though this legislation is aimed at disabled travellers, the on-board information requirements and mechanisms they provide for means that many train companies are using PIS to provide relevant on-board travel information to all passengers as required by Article 8(2).
- 3.53** Article 8(2) also requires that on the train announcements are made in relation to "main connecting services". The PRO does not define "main connecting services" or prescribe how such information should be delivered. There are practical difficulties in providing information on connecting services for all stations that a train passes through, or for all connecting services at large stations. This is a particular issue for regional trains serving large cities.
- 3.54** However, we believe that train companies who are following the rail industry best practice on the provision of passenger information will be meeting this requirement.
- 3.55** The ATOC Good Practice Guide for Customer Information recommends that on board announcements for main connecting services (i.e. "change here for") are to be made before arrival at "principal stations", at the next station if a train has not called at a principal station for over 20 minutes and at the final destination. A principal station is defined as a station:
- that is an interchange or on a converging route;
 - where passengers could practically change from, or to, another TOC's service;
 - that has a heavy footfall;

- that provides interchange with other modes of transport (e.g. London Underground, tram systems, airports).

3.56 In the Department's view this aligns with the intention of the PRO.

3.57 In principle therefore we believe that this element of 8(2) is likely to be satisfied, but the extent of industry compliance with best practice is unclear. We would therefore welcome evidence on the level of industry compliance with the Good Practice Guide, and any other actions that satisfy this PRO requirement.

3.58 With respect to security issues, the Secretary of State has issued Instructions under section 119 of the Railways Act 1993 that require operators to make announcements to inform passengers of the need to be vigilant about security matters affecting trains and stations.

Article 8(3). Provision of information in an appropriate format.

3.59 RVAR and the PRM TSI requires that PIS messages shown on trains meet an appropriate standard and that audible messages are of a suitable volume. By 2020, accessibility legislation will require all rolling stock in Great Britain to have both audio and visual PIS to meet the needs of DPRMs.

3.60 Train companies are also required by the NRCoC to provide information wherever possible in a way which people with sight and/or hearing difficulties can understand. Security announcements should also consider the needs of passengers with auditory and visual disabilities.

Preferred Approach

Article 8(1). Pre-Journey Information.

3.61 Information provided before the journey is being met through existing arrangements for train operators and ticket sellers so there would not be additional costs as a result of removing the exemption. We therefore propose to remove the exemption. **However, we welcome views on the application of this Article to independent ticket vendors and tour operators.**

Article 8(2). Information during the journey.

3.62 Domestic best practice on the provision of passenger information during the journey is also aligned with PRO requirements which suggests that passengers are already

receiving the benefits intended by the PRO. We are therefore minded to remove this exemption taking into account evidence of industry compliance with best practice guidance and other actions that we believe satisfy this PRO requirement.

Article 8(3). Provision of information in an appropriate format.

3.63 The requirements of Article 8(3) are currently being met and therefore we propose that this exemption can also be removed.

3.64 Further information on costs and benefits can be found in the Impact Assessment.

Article 8 Travel Information

Q. Do you agree that the exemption for Article 8 can be removed? **Yes/ No**

If "No", state which part or parts of the exemption cannot be removed giving your reasons. Please provide your rationale having regard to impacts on passengers and additional costs to industry.

Q. (a) Ticket vendors and Tour Operators. Please describe the current levels of compliance with Article 8 (1) requirements, and if practice is not fully aligned, what are the estimated costs of becoming compliant?

Q. (b) Please provide details of train operator compliance with the industry's best practice guidance on journey information.

Article 10 Travel Information and reservation systems

PRO requirements and benefits

3.65 *Article 10(1) to (4):* These provisions mandate the use of a Computerised Information and Reservation System for Rail Transport (CIRSRT) and establish rules concerning its implementation. The technical specifications for interoperability referred to in Directive 2008/57/EC¹⁵ apply.

3.66 *Article 10(5):* Train operators and ticket vendors must comply with existing data protection law including Directive 95/46/EC

¹⁵ Directive 2008/57/EC of 17 June 2008 on the interoperability of the rail system within the Community (Recast)

(as amended) when disclosing personal information on individual bookings to other railway undertakings and/or ticket vendors.

Current compliance in Great Britain

- 3.67** The measures currently being undertaken by industry to implement the TAP TSI Regulation¹⁶ also meet the requirement in Article 10 for railway undertakings to adapt their CIRSRT in accordance with the deployment plan in that TSI.
- 3.68** It is expected that UK industry will achieve compliance with the TSI by December 2018. This is accepted by the industry and the European Commission, and is now the focus of a Network Rail implementation plan. The application of Article 10 will not lead to any additional cost to industry - the cost of adapting CIRSRT systems stems from the TAP TSI Regulation rather than the PRO.

Preferred Approach

- 3.69** We propose that the exemption for this Article is removed. Further Information on costs and benefits can be found in the Impact Assessment.

Article 10 Travel Information & Reservations

Q. Do you agree with our proposal that the Article 10 exemption should be removed? **Yes/No**

Please provide your rationale having regard to impacts and benefits for passengers and additional costs to industry.

¹⁶ Commission Regulation (EU) No 127/2013 of 6 December 2013 amending Regulation (EU) No 454/2011 on the Technical Specification of interoperability relating to the subsystem "telematics applications for passenger services" of the trans-European rail system

4. Liability of railway undertakings for passengers and their luggage

Article 13 Advance Payments of compensation to those injured or the dependants of those killed in an accident

PRO requirements and benefits

- 4.1** This mandates the provision of immediate and proportionate financial assistance by railway undertakings in the event of an accident (where passengers are killed or injured) to cover short-term needs, even though liability has yet to be determined.
- 4.2** Article 13(2) sets a minimum limit of Euro 21,000 in the event of a death and 13(3) sets out the status and liabilities arising from such a payment including the fact that a subsequent award can be reduced by the amount of the advance payment.

Current compliance in Great Britain

- 4.3** The rail industry's Claims Allocation and Handling Agreement (CAHA) allocates liability in respect of passengers and luggage. Compliance with CAHA is an ORR licence requirement for train operating companies. Clause 12 of CAHA was amended in 2009 for better alignment with the requirements of Article 13 of the PRO Regulation.
- 4.4** However the requirement to make payments in advance could lead to some upfront, cost for railway undertakings.
- 4.5** Changes to CAHA in 2009 allow for the advance payment made to be reimbursed by a designated Lead Party (where the train operator itself is not the primarily liable party). If the operator is liable for the death of a passenger the subsequent award would be far greater than the advance payment and would be reduced by such payment in any event.

- 4.6** The additional costs associated with this Article are therefore only the amount of interest lost or paid by a train operator through making an advance payment before liability is established.

Preferred Approach

- 4.7** The provisions of this Article are largely being met through existing arrangements. Our initial assessment is that the requirement to make advance payment is likely to result in negligible additional cost to the industry, though we note that industry has initially assessed these as higher.
- 4.8** Due to the current uncertainty on costs this article is featured within the Impact Assessment under the cost option. However, the strong positive impact that this measure would have on bereaved families in difficult circumstances, combined with what we consider is likely to be a negligible additional cost to industry when set against the high reputational cost to them of not making advance payments, means that we are minded to remove this exemption subject to confirmation via this consultation of the benefits and costs involved.
- 4.9** We believe that the additional benefits for passengers are likely to come from the earlier receipt of advance payments to cover initial costs after a death for example. However, we require more information on current industry practice with respect to such payments, and further evidence on the benefits for passengers, in order to inform our decision. Further information on costs and benefits can be found in the Impact Assessment.

Article 13 Advance Payments of compensation to those injured or the dependants of those killed in an accident.

Q. Do you agree with our proposal that the exemption for Article 13 can potentially be removed? **Yes/No**

Please provide your rationale having regard to impacts and benefits for passengers and additional costs to industry.

In particular we welcome evidence to assist the Department to evaluate the extent of the additional costs and benefits attributable to the PRO such as the loss of interest (or payment of additional interest), and time taken to establish liability for accidents.

Article 14 Contestation of Liability

PRO requirements and benefits

4.10 Where a railway undertaking contests its own liability for an accident, it must nevertheless make every reasonable effort to assist a passenger in making a claim for compensation from third parties.

Current compliance in Great Britain

4.11 The section on article 13 above provided an overview of CAHA which all train operators must be party to and must comply with. CAHA allocates liability for any claim for compensation for death or personal injury that arises in connection with the operation of railway assets. CAHA therefore assists a railway undertaking in meeting its duty under the PRO to assist a passenger claiming compensation for damage from third parties.

Preferred Approach

4.12 The provisions of this Article are in practice being met through those existing arrangements, and passengers are already receiving the benefits envisaged by the PRO. Therefore there would not be any additional costs as a result of removing this exemption and so we propose that the exemption for this Article is removed.

4.13 Further information on costs and benefits can be found in the Impact Assessment.

Article 14 Contestation of Liability

Q. Do you agree with our proposal that the Article 14 exemption should be removed? **Yes/No.**

Please provide your rationale having regard to impacts and benefits for passengers and additional costs to industry.

5. Delays, Missed Connections and Cancellations

Article 15 Liability for delays, missed connections and cancellations

PRO requirements and benefits

- 5.1** Subject to the provisions in Chapter IV of the PRO on delays, missed connections and cancellations, the liability of railways undertakings in this area is governed by article 32 of CIV.
- 5.2** Article 32 provides that the carrier shall be liable to the passenger for the loss or damage resulting from the fact that the journey cannot be continued on the same day. The damages shall comprise the reasonable costs of accommodation and the reasonable cost occasioned by having to notify people expecting the passenger. UK law shall determine whether any further damages shall be due. There are limitations to liability where the late running/cancellation/missed connection is the result of:
- Circumstances not connected with the operation of the railway which the carrier could not avoid, having taken due care;
 - Fault on the part of the passenger;
 - Behaviour of a third party which the carrier could not avoid having taken due care (another train company using the same track would not be treated as a third party for these purposes).

Current compliance in Great Britain

- 5.3** The NRCoC conditions 42- 45 viewed in the round are more generous than article 32 of CIV as they provide for compensation for a delay of more than an hour based on a % of the ticket price. Overnight accommodation must be provided, if it reasonably can be, to a passenger who is stranded as a result of circumstances within the control of the train company.

- 5.4** However the exclusions from liability in the NRCoC go beyond those permitted under article 32 of CIV which depend on the TOC having taken due care. For example, if due care had not been taken to prevent vandalism to a train the exemption in article 32 of CIV would not apply.
- 5.5** In contrast under the NRCoC vandalism is one of the circumstances that is not considered to be within a train company's control and therefore passengers would not be entitled to reimbursement of the costs of accommodation under the NRCoC even if the train company had taken no steps to prevent the vandalism that led to the disruption.
- 5.6** Although the legal regimes are not fully aligned, it is likely in the normal course of business that train companies would take due care to avoid disruption in the circumstances referred to in Condition 45 and the NRCoC could be amended to reflect this.
- 5.7** Nevertheless we would welcome evidence of any additional costs to industry in ensuring full alignment between the legal regimes. When answering this question, please note the issue only arises when a journey cannot be continued on the same day (i.e. infrequently). Any estimate of additional costs should take into account existing industry liabilities under condition 45 of the NRCoC - "Help from Train Companies if you are stranded".

Preferred Approach

- 5.8** The CIV provisions may not be met through existing arrangements, therefore our initial position is that the current exemption is maintained as there may be some small additional costs resulting from full compliance. We require additional information to clarify both the magnitude of that cost, and the corresponding benefits to passengers.
- 5.9** Further information on costs and benefits can be found in the Impact Assessment.

Article 15 Liability and for delays, missed connections cancellations

Q. Do you agree with our proposal that the Article 15 exemption should be maintained? **Yes/No**

Q.(a) To what extent does current industry practice under NRCoC condition 45 overlap with the "due care" requirements of CIV 32? Please provide details of any relevant compliance costs.

Please provide your rationale having regard to the impact and benefits for passengers and additional costs to industry.

Article 16 Reimbursement and rerouting in the event of delays.

PRO requirements and benefits

5.10 This requires that where it is reasonably expected that a delay will lead to arrival at the final destination more than 60 minutes late, passengers may choose:-

- refund of the fare for the entire journey when the journey will no longer serve the passenger's originally planned purpose. The refund will include the return journey where appropriate; or
- continuation or re-routeing under comparable transport conditions to the final destination at the earliest opportunity; or
- continuation or re-routing under comparable transport conditions to the final destination at a later date at the passenger's convenience.

5.11 Train operators are obliged to reimburse or re-route passengers even in situations outside of the rail industry's control.

Current compliance in Great Britain

5.12 The NRCoC already provides passengers with a good proportion of the benefits required under Article 16. For example, under condition 26 of NRCoC if the train a passenger intends to use is cancelled, delayed, or the

reservation cannot be honoured, and the ticket **or relevant portion of it is completely unused** then claims can be submitted for a refund. This potentially allows passengers to abandon a journey part way through due to a delay and seek a refund for the unused part of their journey only.

- 5.13** The NRCoC sets no time limit on the length of delay prior to exercising this right, which is better than the PRO requirement, although in some cases passengers may have to pay an administrative charge not exceeding £10. The deadline for payment is within one month of receipt of the claim which is the same as under the PRO. Under the PRO passengers may request cash rather than rail vouchers whereas this is currently at the discretion of the train company under the NRCoC, but we understand that this may be changing in future,
- 5.14** Condition 43 of NRCoC also envisages that for disruption caused by circumstances within the control of a train company that leave a passenger stranded before reaching their final ticket destination, any train company that is in a position to help will, if it reasonably can, arrange to get the passenger to that destination.
- 5.15** Though this is not fully comparable to the re-routing provisions of the PRO, which require this in all circumstances, it does demonstrate that the GB rail industry does have arrangements to re-route passengers in the event of severe disruption.
- 5.16** We also note that re-routing even where passengers are not stranded is something that the industry already does to a large extent. For example, arrangements for tickets to be used on other operators' services are relatively routine where there are significant delays on a particular route.
- 5.17** Article 16 is met in some respects by existing requirements and rail industry best practice, but the industry is not yet fully compliant. As such the potential benefits for passengers are realised to a positive but not full extent.
- 5.18** We expect that full compliance with Article 16 is likely to impose costs on industry including:
- Reimbursement of the full cost of the ticket - for parts of the journey already made where the journey is no longer serving the purpose of the passenger's original travel plan;
 - Continuation or re-routing in all circumstances at the earliest opportunity or at a later date;

- No administration charges;
- Cash if requested by the passenger rather than at the discretion of the train company.

5.19 We would welcome evidence from respondents to assist the Department in evaluating the extent of the additional costs and benefits attributable to the PRO. That evidence should identify, but then discount:

- Passengers current propensity to abandon journeys and claim refunds where there are delays of more than 60 minutes.
- The current costs of industry practice to re-route, allow use of other operators trains, and the marginal cost of providing for future journeys.
- The additional cost of complying with Article 17 which also provides for compensation in the event of a delay. The cost of meeting these two articles cannot be considered in isolation and need to be adjusted to avoid double counting the costs to the rail industry.

Preferred Approach

5.20 Our initial assessment is that there are costs (subject to confirmation) attached to full compliance with Article 16. Passengers already partly receive the benefits envisaged by the PRO in this area so the further benefits arise from the extra protection under the PRO e.g. a full cash refund in cases of a delay of over an hour if the journey is no longer serving any purpose - even if part of the ticket has been used. We would welcome further information to assist in quantifying the extent of these benefits.

5.21 Subject to confirmation of the benefits and costs our initial proposal is to maintain the exemption for this Article.

5.22 Further information on costs and benefits can be found in the Impact Assessment.

Article 16 Reimbursement and rerouting in the event of delays

Q. Do you agree with our proposal that the Article 16 exemption should be maintained **Yes/No**.

Please provide your rationale having regard to impacts and benefits for passengers and additional costs to industry.

In particular we would welcome detailed cost information as per paragraphs 5.18 - 5.19.

Article 17 Compensation of the ticket price

PRO requirements and benefits

5.23 In the event of delays to the journey (where the passenger has not been reimbursed under Article 16) the levels and conditions for paying compensation are:-

- 25% of the ticket price for a delay of 60 to 119 minutes;
- 50% of the ticket price for a delay over 120 minutes.
- Where a passenger has a return ticket, the calculation for a delay on one leg will be half the return fare paid. The compensation rate will be as shown above (i.e. 25% or 50%)
- Rail voucher payments are acceptable, but where a passenger requests cash, this must be paid.
- The compensation must be paid within a month of the compensation request and no administration or similar fee may be deducted. Train companies can set a minimum threshold of up to 4 Euros before compensation is paid.
- The passenger will not have a right to compensation when they are informed of the delay before buying their ticket or if the delay is less than 60 minutes due to continuation on a different service or re-routing.
- Train companies are obliged to pay Article 17 compensation in circumstances which are outside of the rail industry's control.

Current compliance in Great Britain

- 5.24** The Government is introducing an improved system of compensation for passengers (including season ticket holders) based on delays to individual journeys that goes beyond that required in the PRO. This is being introduced as franchises are replaced or when opportunities arise within existing franchises, in place of traditional Passenger Charter compensation requirements. The improved system is known as Delay Repay.
- 5.25** For train companies which operate Delay Repay, all passengers are entitled to claim compensation for each delay of more than 30 minutes which they experience, whatever the cause: there are no exclusions for delays outside the control of the rail industry (e.g. due to vandalism, suicides).
- 5.26** The entitlement is also more generous than the PRO, and repays:
- 50% of the single fare for delays of between 30 and 59 minutes;
 - 100% of the single fare for delays of between 60 and 119 minutes;
 - 100% of the return fare for delays of 120 minutes or more.
- 5.27** Ten train companies currently offer Delay/Repay with an eleventh due to follow this autumn.
- 5.28** Those passengers who use train companies not yet subject to Delay Repay can still claim compensation as all franchised train companies are required under their franchise agreement to have in place a Passenger's Charter, which will include arrangements for compensation for passengers. While the NRCoC also contains minimum levels of compensation (see below) but many of the train companies offer rates and conditions above this, and in some aspects these are more generous than the PRO.
- 5.29** Passengers on First Great Western services, for example, will receive compensation for the full value of a part of a journey if it is delayed by more than an hour (i.e. 50% of a return/100% of a single), or the full cost of the ticket if delayed more than two hours¹⁷. However, train companies operating traditional Passenger's Charter do not offer compensation for delays

¹⁷ Page 13, Passenger Charter Booklet, <https://www.firstgreatwestern.co.uk/About-Us/Customer-services/Passenger-Charter>

outside the control of the rail industry and therefore do not satisfy the PRO requirements.

- 5.30** As a fall back, the minimum standards for passenger compensation for delay are set out in NRCoC condition 42. In the event of a delay of 60 minutes or more, this requires minimum compensation of 20% of the fare paid for a single or a return ticket where there is delay on both legs of the journey or 10% of the fare paid for a return ticket where there is delay on only one leg of the journey.
- 5.31** As noted under Article 16 under the current NRCoC terms, compensation is payable in rail vouchers (rather than cash) for passengers with single, return and weekly season tickets. However, due to industry developments on consumer issues, we expect that a refreshed NRCoC will move towards allowing passengers to request refunds in cash as an alternative to vouchers – providing passengers with a choice in reimbursement. If this is to happen we could consider removing Article 17(2) in due course.

Preferred Approach

- 5.32** Delay Repay is being introduced on all franchised train operators as franchises are replaced, therefore compensation arrangements are moving towards a system that is more generous for passengers than that contained in the PRO. However, a number of existing franchises with traditional Passenger's Charters will continue to be in place after December 2014. Although a number of these have some conditions beyond the PRO requirements, there is not full alignment, particularly in terms of compensation for events outside the rail industry's control.
- 5.33** There are likely to be costs attached to achieving full compliance with Article 17 for those train operators as this would involve changing existing franchise agreements. We would welcome evidence on those potential costs. Passengers will, however, benefit from Delay/Repay on some lines, and others in future, as new franchises are competitively let - this also provides better value for money for the Government and the taxpayer.
- 5.34** We therefore propose to maintain the exemptions for Article 17.
- 5.35** Further information on costs and benefits can be found in the Impact Assessment.

Article 17 Compensation of the ticket price (refunds in the case of delays)

Q. Do you agree with our proposal that the exemption should be maintained for Article 17? **Yes/No**

Please provide your rationale having regard to impacts and benefits for passengers and additional costs to industry.

Article 18 Assistance

PRO requirements and benefits

Article 18(1): Provision of Information.

5.36 Railway undertakings must keep passengers informed of the situation when trains are subject to delayed departures and delays during the journey.

Article 18 (2) (a),(b) and (c): Provision of Assistance

5.37 In the case of delays over 60 minutes, the passenger shall be offered free of charge:-

- meals and refreshments in reasonable relation to the waiting time if these are available on the train or station or can be reasonably supplied.
- hotel or other accommodation and transport between the station and the accommodation in cases where a stay of one or more nights becomes necessary. This is only where and when physically possible.
- transport from the train to the station if the train is blocked on the track, to an alternative departure point or the final destination of the service. Again this is where physically possible.

Article 18(3): Alternative Transport

5.38 Where the railway service cannot be provided, the railway undertaking shall provide alternative transport as soon as possible.

Article 18(4): Certification of Tickets

5.39 Where there is disruption, the railway undertaking shall certify the same on the ticket when requested by the passenger.

Article 18(5): Assistance to Disabled Persons and Persons with Reduced Mobility.

5.40 When discharging these duties, the railway undertaking shall pay particular attention to the needs of DPRMs.

Current compliance in Great Britain

Article 18(1): Provision of Information.

5.41 The rail industry has made improvements in the last few years on the provision of information to passengers during periods of disruption.

5.42 ATOC has developed an Approved Code of Practice (ACoP) on passenger information during disruption (PIDD)¹⁸. The ACoP covers information to customers on board trains and at stations with the objective of enabling the timely provision of correct and consistent information to keep passengers well-informed during major disruption/delays.

5.43 This Code of Practice has recently been reviewed by Passenger Focus and the rail industry. The outcome will be a revised Code of Practice, including improved commitments and specific new delivery measures, that will be collated into an action plan and a first draft published by November this year¹⁹.

5.44 The ORR has made compliance with the ACoP an enforceable Operator Licence condition and has committed to reporting publicly on progress. All train companies, station operators and Network Rail must work together in compliance with the ACoP to deliver the best possible passenger information across the whole rail network. We believe that this meets Article 18(1).

Article 18 (2) (a),(b),(c) and (3): Provision of Assistance

5.45 In broad terms many of these requirements are already being met through industry practice. Train operators currently

¹⁸ [http://www.atoc.org/clientfiles/files/ACOP015v3%20-%20PIDD%20\(2\).pdf](http://www.atoc.org/clientfiles/files/ACOP015v3%20-%20PIDD%20(2).pdf)

¹⁹ See <http://orr.gov.uk/news-and-media/press-releases/2014/rail-industry-signs-up-to-plan-to-improve-passenger-information-during-disruption>, http://orr.gov.uk/__data/assets/pdf_file/0004/14746/passenger-information-during-disruption-2014-09-22.pdf, and <http://www.raildeliverygroup.com/media-centre/press-releases/rdg-we-know-passengers-want-clear-accurate-and-timley-information/>

provide drinks and sometimes light refreshments to passengers on trains where delays exceed 60 minutes (though this is more customary on long distance services with catering cars) and have contingency plans in place to assist and rescue stranded passengers in the case of significant delay.

- 5.46** As noted above, Condition 43 of the NRCoC provides that a train company will, if it reasonably can, provide overnight accommodation if a passenger cannot reach their final destination and the train company cannot get them to their destination by other means. If other train companies are in a position to assist they will, if they reasonably can, arrange to get passengers to their final destination. However these requirements only apply where the disruption is caused by "circumstances within the control of the train company". The PRO does not provide such a defence.

Article 18(4): Certification of Tickets

- 5.47** As noted at paragraph 3.15 existing industry systems are in place to record delays. Certification of tickets under this Article is at the request of the passenger and therefore the requirement to do so is unlikely to be widespread or burdensome and therefore any additional costs to industry are expected to be negligible.

Article 18(5): Assistance to DPRMs

- 5.48** Railway undertakings are already subject to existing rail industry obligations such as the requirement to establish and comply with Disabled People's Protection Policy ²⁰("DPPPs") and the wider responsibilities to not discriminate when providing services under the Equality Act 2010 (see Annex C).

Preferred Approach

- 5.49** Despite the broad alignment of existing domestic obligations and practice the full application of this Article is likely to lead to some additional cost for the rail industry. **We would welcome evidence from stakeholders on the extent of the additional costs arising from full compliance with the PRO.**
- 5.50** We believe Article 18 goes further than current practice in the key area of providing refreshments to passengers delayed over 60 minutes whilst at stations. This may come at a medium cost to industry, including for example the

²⁰ How to Write Your Disabled People's Protection Policy: A Guide for Train and Station Operators, section C9 - Disruption to facilities and services.

administrative costs of a voucher scheme that might be needed to implement this. The benefits for passengers are likely to be increased comfort in the event of delays, and in a wider range of circumstances.

- 5.51** We would welcome evidence on the possible extent of these costs and benefits, taking into account the requirement for reasonableness which will provide train companies with some flexibility to meet particular circumstances. For example, not all stations will have facilities in place to provide refreshments. The estimated number of passengers who will abandon their plans to travel and seek a refund under condition 26 of the NRCoC should also be factored in.
- 5.52** We propose that the exemptions for Articles 18(1), (4) and (5) are removed. However the potential cost impacts around delivering Articles 18(2) and (3) lead us to propose maintaining these parts of the exemption.
- 5.53** Further information on costs and benefits can be found in the Impact Assessment.

Article 18 Assistance

Q. Do you agree with our proposal that the exemptions for Articles 18 (1), (4) and (5) are removed? **Yes/No**

Q.(a) Do you agree with our proposal that the exemptions for 18(2) and 18(3) should be maintained? **Yes/No**

Please provide your rationale having regard to impacts and benefits for to passengers and additional costs to industry.

6. Disabled Persons and Persons with Reduced Mobility (DPRM)

A number of protections are already established for DPRMs when travelling by rail in GB. Annex C provides an overview of the existing protection for DPRMs, including under article 19 and 20(1) of the PRO which have applied to GB's domestic and international rail transport services since December 2009.

The exception for rail transport in relation to disability discrimination is in Part 9 of Schedule 3 to the Equality Act 2010²¹. This exception avoids an overlap with the DPRM provisions in the PRO which are directly applicable in the UK and are designed to give DPRMs the same rights as other citizens to free movement, freedom of choice and to not experience discrimination²².

Article 20(2) Information to DPRMs

PRO requirements and benefits

- 6.1** This requires, where requested, the train operator, ticket vendor or tour operator to notify the DPRM within 5 days of the reason they have been refused a ticket, reservation, or are required to be accompanied.

Current compliance in Great Britain

- 6.2** Service providers must not discriminate against disabled people²³. In addition, station and passenger train operators are required under their licence conditions to establish and maintain a Disabled People's Protection Policy ("DPPP") (see Annex D). Among other things DPPPs require that operators provide assistance where reasonably practicable to DPRMs who arrive at a station and require assistance to

²¹ Equality Act 2010 Schedule 3 (Services and Public Functions Exceptions), Part 9 (Transport), paragraphs 34A (Transport by land: rail)_

²² PRO recital (10)

²³ Section 29 Equality Act 2010 and for rail service providers - PRO Article 19

allow them to travel but assistance has not been arranged in advance. The DPPP guidance also notes that operators would be expected to provide clear and reasonable justification to passengers where assistance cannot be provided for any reason.

- 6.3** Given these requirements disabled passengers are only likely to be refused travel in limited or specific circumstances. For example, there are instances, where for safety reasons, a DPRM may not be permitted to travel, for example, a user of a wheelchair or mobility scooter larger than the "reference wheelchair" provided for under relevant rail vehicle accessibility legislation. Not all scooters can be carried due to space constraints on rolling stock, and DPPPs require operators' policies on this to be made clear in the published DPPP, including the reasoning.
- 6.4** Train operators are also required as a licence condition to have appropriate Complaints Handling Procedures²⁴ (CHPs) in place to deal with all customer complaints in a timely manner.
- 6.5** We recognise that the PRO introduces an additional requirement to provide (on request) within 5 days written reasons to passengers refused a ticket, or when required to be accompanied. However, we believe existing processes in place for correspondence/ complaints handling and satisfying DPPP requirements, would likely only require minor adjustment to prioritise DPRM requests.
- 6.6** Given the existing requirements not to discriminate against disabled passengers and to make reasonable adjustments, we believe the requirement to write would apply infrequently and we think any additional costs to industry to comply with this Article would be negligible.
- 6.7** Ticket vendors and tour operators are also subject to Equality Act duties.

Preferred Approach

- 6.8** We believe any additional costs would be negligible and we therefore propose that the exemption for this Article is removed.

²⁴ http://orr.gov.uk/data/assets/pdf_file/0004/4288/sra-complaints-handling.pdf

- 6.9** Further information on costs and benefits can be found in the Impact Assessment.

Article 20 (2). Information to disabled persons and persons with reduced mobility

Q.. For rail undertakings - do you agree with our proposal that the exemption for Article 20(2) is removed? **Yes/No.**

Please provide your rationale having regard to impacts and benefits for passengers and additional costs to industry

Q.(a) Ticket vendors and tour operators - do you agree that exemptions for Article 20(2) should be removed? **Yes/No.**

Please provide details on any cost implications applicable to these sectors as a result of the proposed change.

Article 21 Accessibility

PRO requirements and benefits

Article 21(1): Accessibility of Stations, Rolling Stock and other Facilities

- 6.10** This requires that railway undertakings and station managers must ensure that stations, platforms rolling stock and other facilities are accessible to DPRMs through compliance with the (PRM TSI - paragraphs 1.12 -16 of Annex D).

Article 21(2): All reasonable efforts are made to provide access to travel by rail

- 6.11** This requires that in the absence of accompanying on-train staff or staff at a station, railway undertakings and station operators shall make all reasonable efforts to enable DPRMs to travel by rail.

Current compliance in Great Britain

Article 21(1): Accessibility to Stations, Rolling Stock and other Facilities

6.12 Great Britain's main line railways, both its rolling stock and stations, are already compliant with the PRM TSI (see Annex C paragraphs 1.13 & 1.14). A new version of the PRM TSI will apply to the whole EU heavy rail-network from January 2015. The PRO does not apply to RVAR vehicles which continue to be subject to the Equality Act 2010 (see Annex C paragraphs 1.1-1.7).

Article 21(2): All reasonable efforts are made to provide access to travel by rail

6.13 Great Britain's main line railways, both its rolling stock and stations, are already compliant with the PRM TSI (see Annex C paragraphs 1.13 & 1.14). A new version of the PRM TSI will apply to the whole EU heavy rail-network from January 2015. The PRO does not apply to RVAR vehicles which continue to be subject to the Equality Act 2010 (see Annex C paragraphs 1.1-1.7).

Preferred Approach

6.14 The provisions of this Article are being met through existing arrangements and passengers already receiving the intended benefits, therefore there would not be any additional costs as a result of removing the existing exemption. We propose that the exemption for this Article removed.

6.15 Further information on costs and benefits can be found in the Impact Assessment.

Article 21 Accessibility

Q. Do you agree with our proposal that the exemption for Article 21 should be removed? **Yes/No**

Please provide your rationale having regard to impacts and benefits for passengers and additional costs to industry.

Article 22 Assistance at railway stations

PRO requirements and benefits

Article 22(1): Assistance at Railway Station is Free of Charge

- 6.16** At staffed stations the station manager shall provide assistance with boarding or alighting trains for DPRMs. This assistance shall be provided free of charge.

Article 22(2): Derogation to Free of Charge Assistance

- 6.17** Member States may provide a derogation for a public service contract where alternative facilities or arrangements guaranteeing an equivalent or higher level of accessibility of transport services are in place.

Article 22(3): Display of easily accessible information

- 6.18** At unstaffed stations, railway undertakings and the station manager shall ensure that there is easily available information regarding the nearest staffed station and directly available assistance for DPRMs.

Current compliance in Great Britain

Article 22(1): Assistance at Railway Station is Free of Charge

- 6.19** Providing such assistance free of charge is an existing principle in domestic equality legislation (see Annex C paragraph 1.5).

Article 22(2): Derogation from Free of Charge Assistance

- 6.20** Franchise operators (i.e. those falling within the scope of Article 22(2)) already meet the requirements of 22(1) and we can envisage no circumstances where a derogation is needed.

Article 22(3): Display of easily accessible information

- 6.21** DPPP's require operators to provide minimum levels of accessibility information for each station they operate and this can also be found on the "Stations Made Easy" website or by speaking to a member of the National Rail Enquiry service.
- 6.22** Train companies are required to make information on the facilities, services and accessibility of all their stations available to passengers at information points, station ticket

offices, by telephone and on the internet. They are also expected to provide details of services and facilities at all of the stations they manage.

- 6.23** If the relevant information is not already available at an unstaffed station, an operator would have to update its existing station welcome poster or other notice.
- 6.24** Utilising existing space and immediately replacing current posters, which tend to be updated every few years, could lead to a small marginal cost for train companies. However, a phased renewal when the poster is next re-issued, or making use of other display methods, could potentially be of negligible cost.
- 6.25** We welcome suggestions on efficient, value for money, ways in which this requirement could be satisfied and evidence of any material costs of doing so.

Preferred Approach

- 6.26** The provisions of Article 22(1) and 22(3) are currently met through existing arrangements. However, the rail industry has identified the potential for a small marginal cost as a result of removing the exemption for Article 22(3), mainly as a result of lost advertising space. For that reason it has been included in the Impact Assessment under the cost option.
- 6.27** However, we consider that any costs incurred by industry are likely to be negligible, and that there is scope for the industry to meet the requirement of this Article without any loss to advertising revenue. For these reasons, and because we consider that most TOCs would want to do this in any case on customer service grounds, we are minded to remove this exemption, subject to clarification of the expected benefits and costs through this consultation.
- 6.28** Further information on costs and benefits can be found in the Impact Assessment.

Article 22 Assistance at railway stations

Q. Do you agree with our proposal that the exemptions for Article 22(1) and (2) are removed? **Yes/No.**

Please provide your rationale having regard to impacts and benefits for passengers and additional costs to industry.

Q.(a) Do you agree that Article 22(3) can potentially be removed? **Yes/No**

Please provide evidence of the estimated costs and benefits if this exemption was removed and suggestions for the display of easily accessible information required by Article 22(3) in a cost effective manner.

Article 23 Assistance on board

PRO requirements and benefits

- 6.29** Railway Undertakings must make reasonable efforts to provide on-board assistance to DPRMs (free of charge) to enable them to have access to the same services on the train as other passengers.

Current compliance in Great Britain

- 6.30** Section 29 of the Equality Act 2010 protects a disabled rail passenger against disability discrimination including during the course of being provided with a service and includes a duty to make reasonable adjustments. Schedule 2 to the 2010 Act explains how the duty to make reasonable adjustments applies to transport providers (including rail) so that disabled people can use their services (see Annex D).
- 6.31** The RVAR and PRM TSI regimes (see Annex C paragraphs 1.6-1.7 and 1.12-1.6) impose specific requirements regarding physical accessibility on board a train, for example, boarding devices, wheelchair spaces, wheelchair compatible toilets, “at-seat” catering services if there is no passageway for a wheelchair and priority seating for DPRMs.
- 6.32** Train operators are also required by this legislation to assist DPRMs to board or alight a train where the platform to train gap would otherwise represent a barrier to travel.

DPPP guidance also highlights the provision of on-board services such as staff assisting with luggage where assistance has been booked in advance.

Preferred Approach

- 6.33** Given the existing sector specific legislation and the Equality Act duties in GB, we believe there would be no additional costs for train companies if we decided to remove the current exemption. Subject to any evidence of additional costs in response to the consultation, we propose that the Article 23 exemption should be removed.
- 6.34** Further information on costs and benefits can be found in the Impact Assessment.

Article 23 Assistance on Board

Q. Do you agree with our proposal that the exemption for Article 23 should be removed? **Yes/No.**

Please provide your rationale having regard to impacts and benefits for passengers and costs to industry.

Article 24 Conditions on which assistance is provided

PRO requirements and benefits

- 6.35** When providing assistance to DPRMs at stations and on board trains in accordance with articles 22 and 23, railway undertakings, station managers, ticket vendors and tour operators must cooperate when providing assistance to DPRMs in accordance with the following conditions:
- a) a requirement of 48 hours' notice to request assistance; one notification should be sufficient where a ticket permits multiple journeys;
 - b) measures shall be taken for the necessary reception of notifications;

- c) if no notification is made, reasonable efforts need to be made by the railway undertaking and station manager to provide assistance to travel;
- d) designation of areas where DPRMs can announce their arrival at the railway station and if need be request assistance;
- e) that the DPRM presents themselves at a designated point at a stipulated time (not more than 60 minutes before travel).

Current compliance in Great Britain

6.36 Our initial assessment is that current arrangements already meet or exceed a number of these conditions. However, some conditions are likely to require further action to ensure compliance.

Article 24(a): Notice Periods

6.37 Under DPPP requirements, operators do not require passengers to give more than - 24 hours' notice (though it is recommended), (48 hours' notice for international rail journeys) when booking through "Passenger Assist". The domestic notice requirement is therefore shorter than the PRO requirement.

6.38 However, we understand that the current Passenger Assist system (and ticket reservations in general) is only capable of handling bookings of assistance for multiple journeys for a twelve week advance period. For any season tickets of a duration longer than 12 weeks, the industry would not be compliant with the requirement for just one notification of the need for assistance, assuming the DPRM was able to provide adequate information on the timing of journeys over a more extended period.

6.39 Updating industry IT systems would come at a cost. There are also practical considerations for the passenger who, given variables such as leave and sickness, may not be able to confirm their travel requirements in advance for such lengthy periods.

Article 24(b): Reception of Notifications

6.40 The "Passenger Assist" system provides a single contact point for passengers to notify assistance needs prior to travelling on the rail network. The Passenger Assist

system is provided by train companies and highlighted on the National Rail Enquiries website and TOC's own websites.

- 6.41** However, it is not clear how other ticket vendors (e.g. third party online ticketing) and tour operators make provision to highlight the existence of the passenger assistance scheme when DPRM passengers book tickets with them. **We would welcome evidence and views from these organisations as to how they currently meet this condition** (and the potential costs of doing so if not).

Article 24(c): No notification provided

- 6.42** Station Managers and train operators are expected under their DPPP's to provide assistance to DPRMs who arrive at a station and require assistance to travel but where assistance has not been arranged in advance, where reasonably practicable. This is equivalent to the requirement in the PRO "to make all reasonable efforts" to provide assistance if no advance notification is provided in accordance with Article 24(a).

Article 24(d): Designated arrival points

- 6.43** DPPP guidance already recommends that operators consider providing clearly marked designated meeting points at larger stations for use by people that have booked assistance to meet station staff.
- 6.44** DPPP's also require the provision of information points at all larger stations, which are open whenever the booking office is open, ensuring they are clearly signposted and locating them in an obvious position. DPPP's also note that information points should be clearly marked as the best place for disabled people to seek advice, and that booking offices themselves can be used as information points if suitably marked and equipped.
- 6.45** There is presumably some potential for dual use of booking offices as designated meeting points without additional cost to industry. At a smaller staffed station without information points or existing designated meeting points, a booking office could feasibly act as a default designated point. We welcome clarification of the processes in place under Passenger Assist that advise passengers how to report arrival for the purposes of a booked assistance journey at these stations.

- 6.46** We recognise that some costs may arise if additional signage is required for the establishment of designated points for those stations not captured by the DPPP, or if intercom devices are required at station entrances for DPRMs to announce their arrival.
- 6.47** However, we note that any IT changes to update information on any new designated points is already likely to be required as part of DPPP commitments to provide up to date passenger information. We welcome evidence of costs of delivering this requirement taking into account the above points
- 6.48** We do not consider that Article 24(d) applies to unstaffed stations where the requirement is to display a notice directing DPRMs to nearest staffed station (see Article 22(3)).

Article 24(e): Designated arrival time

- 6.49** Rail industry practice currently exceeds the PRO requirement with a recommendation of arriving 20 minutes in advance for long journeys if using a large station or 10 minutes at a smaller station²⁵. However, this is only recommended practice and not backed up in law.

Preferred Approach

- 6.50** The provisions of parts (b), (c) and (e) of this Article are being met through existing arrangements, therefore there would not be any additional costs as a result of removing these exemptions and we propose to do this .
- 6.51** Parts (a) and (d) are not currently met in full and there may be costs attached if the exemption was removed. At this stage, subject to further evidence of benefits, we believe that there is potential for the costs to outweigh the benefits to passengers. For this reason we propose to maintain the exemptions for article 24(a) and (d).
- 6.52** Given that the conditions in Article 24 qualify an otherwise strict duty in Article 22 to provide assistance at railway stations to enable a DPRM to travel on the train of their choice, the effect of a decision to maintain the domestic

²⁵ <http://www.disability-onboard.co.uk/passenger-assistance/>

exemption for Articles 24(a) and (d) would be to qualify Article 22 by reference to existing domestic requirements.

- 6.53** This would mean a DPRM season ticket holder would have to inform station managers and train operators of their request for assistance every 12 weeks. If the request for assistance was not repeated for week 13, train operators and station managers would be required by article 24(c) to make "all reasonable efforts to provide assistance" to enable the DPRM to travel. Making all reasonable efforts might mean, for example, that the station manager helps the DPRM to catch the next train rather than the one they usually catch in the morning. In the Department's view, and subject to further evidence on the costs of improving the Passenger Assist system to handle bookings of assistance for an extended period of more than 12 weeks, this would be a reasonable qualification while IT systems are being updated.
- 6.54** Similarly, in the absence of a designated arrival point for DPRMs, the station manager would be required to make all reasonable efforts to provide assistance to enable DPRMs to travel.
- 6.55** Further information on costs and benefits can be found in the Impact Assessment.

Article 24 Conditions on which assistance is provided.

Q. Do you agree with our proposal that exemptions for parts (b), (c) and (e) of Article 24 can be removed? **Yes/No.**

Q. (a) Do you agree with our proposal that exemptions for parts (a) and (d) should be maintained? **Yes/No.**

Please provide your rationale having regard to impacts and benefits for passengers and costs to industry for 16 (a) & (d).

Q. (b) Ticket vendors, tour operators, and station managers:

Please provide information and evidence on how your organisation meets the condition to "take all measures necessary for the reception of notifications", or to link into the existing Passenger Assist system. Please also provide details of the potential costs if you are not currently compliant.

Q.(c) Please provide information on the processes in place under Passenger Assist to advise passengers on how to report arrival for the purposes of a booked assistance journey at stations.

Article 25 Compensation in respect of mobility or other specific equipment – removal of any limits on liability

PRO requirements and benefits

6.56 Where a railway undertaking is liable for loss of, or damage to, mobility or other specific equipment for DPRMs, there is no financial limit on the compensation payable in respect of that loss or damage. This means that the limits on a carrier's liability for lost or damaged luggage in CIV do not apply to DPRMs' equipment.

Current compliance in Great Britain

6.57 A DPRM would be able to bring a disability discrimination claim under the Equality Act 2010 if they were not fully compensated for loss of, or damage to, their equipment for which a train operator was responsible. They may also be able to claim compensation for injury to feelings.

6.58 This means that condition 50 of the NRCoC would need to be amended as it currently states that a Train Company's

liability in respect of any item will not exceed the limit laid down in the PRO or the item's value, whichever is lower.

Proposed Approach

6.59 Given the existing remedies available under the Equality Act 2010, we do not consider that there would be an additional cost burden on train companies if we decided to remove the current exemption. On this basis, and subject to any evidence of additional costs in response to the consultation, we propose that the Article 25 exemption is removed.

6.60 Further information on costs and benefits can be found in the Impact Assessment.

Article 25 Compensation in respect of mobility or other specific equipment – removal of any limits on liability

Q. Do you agree with the proposal to remove the exemption for Article 25? **Yes/No.**

Please provide your rationale having regard to impacts and benefits for passengers and costs to industry.

7. Complaints and quality of service

Article 27 Complaints

PRO Requirements and benefits

Article 27(1): Creation of complaints handling mechanism

- 7.1** Railway undertakings shall set up a complaint handling mechanism for rights and obligations covered by the PRO. They also need to publicise the contact details.

Article 27(2): Complaints Response Time

- 7.2** A response must be provided within one month. In justified cases the railway undertaking shall inform the passenger of a date within three months of the complaint by which a response can be expected.

Article 27(3): Complaints data published in annual report

- 7.3** Railway Undertakings should publish in their annual reports the number and categories of received complaints, processed complaints, response times and possible improvement actions undertaken.

Current compliance in Great Britain

Article 27(1): Creation of Complaints Handling Mechanism

- 7.4** Operator licences require railway undertakings to have in place and comply with a Complaints Handling Procedure (CHP)²⁶. As a licence condition this is enforceable by the ORR and there is guidance on what to include in the CHPs. We believe that Article 27(1) is satisfied by existing CHPs.

27(2): Complaints response times

- 7.5** Under the existing CHP processes, operators must set out defined targets for complaint response times. All operators are expected to provide a full response to at least 95% of written complaints within 20 working days. Where they cannot be answered fully within the agreed timescales, operators are

²⁶ http://orr.gov.uk/__data/assets/pdf_file/0004/4288/sra-complaints-handling.pdf

required to provide regular updates to the complainants every ten working days after the target response time.

- 7.6** In this way, we consider that domestic CHP requirements are already aligned with PRO standards. We believe that train operators would only need to make some minimal adjustments to their existing complaints processes in order to achieve a one hundred percent response rate within a month, subject to the PRO fall back of three months to respond in justified cases. Train operators already have an average response rate of 93% within 20 working days²⁷.
- 7.7** We believe that there would be negligible additional costs attributable to the PRO if this exemption was removed, but would welcome further evidence and information.

Article 27(3): Complaints data published in annual report

- 7.8** The existing CHPs require railway undertakings to have a process in place to report on the volume and type of complaints, the level of performance achieved in responding to complaints, the handling of complaints, and the way in which operators have made improvements to services in response to customer feedback.
- 7.9** We believe that these existing requirements mean that train operators already record the data necessary to satisfy Article 27(3) at no additional cost to industry. However, the absolute numbers required by the PRO may lead to some presentational issues concerning the relative performance of different sized train operators. This does not exist under the current domestic measure²⁸.
- 7.10** This may have reputational implications for train operators but we do not believe that it is a cost issue in itself. There may also be passenger benefits if greater transparency and competition drives an overall improvement in industry performance.

Preferred Approach

- 7.11** Passengers already receive the benefits from Articles 27(1), and (3) as the existing domestic regime and the PRO

²⁷ 2012/13 figures: <http://dataportal.orr.gov.uk/displayreport/report/html/20ad3a54-bb76-47cd-83d6-650155519014>

²⁸ Performance of train operators is currently measured in terms of complaints per 100,000 journeys which provides for comparative performance assessments between large and small train operators. Complaints data can be accessed from: <http://orr.gov.uk/statistics/published-stats/complaints-data>

obligation are aligned. As such there appear to be no direct additional costs associated with removing the exemption.

7.12 We believe that Article 27(2) does have the potential for some negligible additional costs which we will seek to clarify through the consultation. However, subject to robust evidence of costs, we are minded to remove the exemption for this article.

7.13 Further information on costs and benefits can be found in the Impact Assessment.

Article 27 Complaints

Q. Do you agree with the proposal to remove the exemption for all parts of Article 27? **Yes/No.**

Please provide your rationale having regard to impacts and benefits for passengers and costs to industry.

Article 28 Service Quality Standards

PRO Requirements and benefits

7.14 Railway Undertakings are required to define service quality standards that include at the very least the items listed below. They must also implement a quality management system to maintain service quality. The items listed in Annex III include:

- Information and tickets;
- Punctuality of services, and general principles to cope with disruptions to services;
- Cancellation of services;
- Cleanliness of rolling stock and station facilities (air quality in carriages, hygiene of sanitary facilities etc);
- Customer satisfaction survey;
- Complaints handling, refunds and compensation for non-compliance with service quality standards;
- Assistance provided to disabled persons and persons with reduced mobility.

7.15 Train companies are also required to publish a separate annual report on their service quality performance which must

be made available on the railway undertaking's website and also on the website of the European Rail Agency (ERA)).

Current compliance in Great Britain

7.16 Many of the requirements for this Article are potentially already met to a degree through existing publication of data. For example:

- Information on punctuality and cancellations can be found on ORR, Network Rail and train operator websites;
- Levels of customer satisfaction which align almost fully with the PRO, are broken down by train operator and published in the National Rail Passenger Survey;
- Travel and ticket information is available on train operator websites as well as National Rail Enquires;
- The ORR also publishes complaints handling data.
- A number of train operators also have Service Quality Management Systems (SQMS) requirements within their existing franchise agreements and so a number of the PRO required reporting strands may be captured through this mechanism.

7.17 However, there is not full alignment between existing reporting and monitoring and the minimum standards set by the PRO. In a number of categories such as availability of toilets, assistance provided to DPRMs and air quality, new monitoring systems would need to be set up. In others areas, changes would be required in the way data is measured and such changes would come at a cost.

7.18 Despite the European Commission publishing some additional guidance on this article there remains some ambiguity as to the intention and expectations of some Article 28 requirements including for example measurement of air quality and hygiene in toilets.

Preferred Approach

7.19 There are likely to be costs attached to full compliance with Article 28 and therefore we propose to maintain the exemption for this Article. However, the removal of the exemption for Article 28 could lead to improved information for passengers which in turn could influence their decision on which train operator to travel with. We would welcome additional evidence

on the benefits for passengers of Article 28 to inform our final decision.

7.20 Further information on costs and benefits can be found in the Impact Assessment.

Article 28 Service Quality Standards.

Q. Do you agree with the proposal to maintain the exemption for both parts of Article 28? **Yes/No.**

Please provide your rationale having regard to impacts and benefits for passengers and costs to industry.

8 Information and Enforcement

Article 29 Information to passengers about their rights

PRO Requirements and benefits

Article 29 (1)

8.1 This article requires railway undertakings, station managers and tour operators to inform passengers of their rights and obligations under this Regulation when selling tickets. They may use a summary prepared by the European Commission for this purpose.

Article 29 (2)

8.2 This requires railway undertakings and station managers to inform passengers on the train and at the station of the contact details of the PRO enforcement body and of the contact details of the complaints handling bodies.

Current compliance in Great Britain

Article 29(1)

8.3 The National Rail Conditions of Carriage (NRCoC) provide an appropriate vehicle for advising passengers of their rights under this Article, provided that rail operators, station managers and tour operators ensure that passengers are aware of and have access to them.

8.4 Currently passengers are alerted to the fact that travel by rail is subject to the NRCoC through the use of window stickers at ticket office windows, on many ticket vending machines as well as tick boxes and links on train operator websites. Many tickets also now have a link to the NRCoC.

8.5 The NRCoC also contain a summary of current rights/conditions and although they are no longer printed and displayed, they can be printed on request and are always available on line. Existing PRO requirements are incorporated into the NRCoC but not generally referenced.

- 8.6** In the Department's view the NRCoC would need to be amended to inform passengers of their rights and obligations under the PRO Regulation (including exemptions for domestic rail passenger services). This is likely to involve negligible additional costs for the reasons referred to under Article 6 (see para 3.32).
- 8.7** It would also be possible to include a summary of customer rights in the "National Guide to Tickets" publication at a small additional cost (approximately £6K per annum). We welcome evidence of any additional costs of compliance.
- 8.8** We do not believe that wider information displays such as full posters at stations detailing rights under the PRO are necessary to satisfy the PRO requirements. Therefore we would not expect the existing revenue generating media to be displaced as a result.
- 8.9** However, meeting this requirement for on train sales is potentially more difficult and costly. We welcome stakeholder views on how this requirement could be implemented in a proportionate and cost effective manner as well as the benefits of doing so
- 8.10** We also welcome evidence from train operators on current levels of compliance with 29(1) and/or the cost of full compliance.

Article 29(2)

- 8.11** This requires that passengers must be informed at stations and on trains of the contact details of the ORR and Passenger Focus or London TravelWatch as the bodies designated for the purposes of Article 30 to enforce or handle complaints under the PRO.
- 8.12** There are existing domestic provisions in Complaints Handling Procedures (CHPs) that require information on how to make a complaint to be included in all major publications such as timetables and on the operator's website. A notice should also be posted in each carriage of every train as well as at stations. Any such material, including posters, should provide the contact details of Passenger Focus or London TravelWatch as appropriate.
- 8.13** However, we do not believe that ORR's contact details are routinely provided on station welcome posters or in "on train" notices. We would welcome evidence on current practice.

8.14 It is likely then that industry are broadly compliant and to the extent that passengers need to be better informed about ORR contact details, we believe that this may result in some small marginal costs if posters were immediately replaced. There could also be negligible cost if ORR's details were included when existing posters and notices are next updated

Preferred Approach

Article 29(1)

8.15 Article 29(1) is broadly satisfied at stations and other sales channels. As such we believe that there may be small to negligible costs for these elements if the exemption was removed.

8.16 However, the issue of on train sales and the potential costs, mean that we are cautious about removing the Article 29(1) exemption. Subject to receiving more detailed evidence on costs and methods of providing information for on train sales as well the benefits of removal for passengers, we propose to maintain the exemption for this Article.

Article 29(2)

8.17 This is being partially met by domestic requirements and full compliance could potentially be achieved at small to negligible cost if the current exemption was removed though we would welcome views on the benefits of doing so. Subject to evidence gathered during this consultation, we are currently minded to maintain the exemption for Article 29 (2).

8.18 Further information on costs and benefits can be found in the Impact Assessment.

Article 29 Information to passengers about their rights

Q. Do you agree with the proposal to maintain the exemption for Article 29 (1)? **Yes/No.**

Please provide your rationale having regard to impacts and benefits for passengers and costs to industry (in particular any costs arising from amending the NRCoC and from informing passengers of their rights when selling tickets on a train).

Q.(a) Tour operators and station managers - Please provide information on how you inform passengers of their rights and obligations when selling rail tickets. Dependent on the current position, please provide any cost estimates for actions necessary to achieve compliance?

Q.(b) Do you agree with our proposal to maintain the exemption for Article 29(2)? **Yes/No.**

Please provide your rationale having regard to impacts and benefits for passengers and costs to industry. We would welcome information on cost effective ways of delivering this requirement.

Q.(c) Please explain how you notify passengers of ORR's contact details.

9. Charter Trains

How would removing PRO exemptions affect charter train operators?

- 9.1** The PRO applies to rail passenger services throughout the EU provided by railway undertakings licenced in accordance with Directive 2012/34/EU (recast)²⁹ (see paragraph 1.3).
- 9.2** All of GB's main line train operating companies hold an EU licence and are therefore covered by the PRO. Charter train operators in GB are also required to have an EU licence as they regularly operate on the main line rail network. This means the PRO also applies to the 4 train operators which are currently operating charter passenger services as their core business.
- 9.3** Charter passenger services are therefore already required by their operator licence to meet the "core" Articles of the PRO which have applied since 2009. In this section, we wish to consider the impact on charter train operators of removing exemptions from the "non-core" Articles.
- 9.4** We do not have as much data on charter train operations as we have for other train operating companies. However, we understand that charter passenger services are different to other rail passenger services. For example, charter services:
- are not contained in the National Rail Timetable published by Network Rail;
 - the booking arrangements for seats (or otherwise) on the service are materially different from those generally applicable to the majority of railway passenger services provided on the Network by other train operators; and
 - tickets for the service are available on a restricted basis or on terms materially different from those generally applicable to comparable railway passenger services provided on the Network.

²⁹ PRO Article 2(1)

- 9.5** This does not necessarily mean that these services cannot comply with the PRO, although there may be reasons for different treatment. For example, given that the booking arrangements and type of ticket for a charter journey may be different due to the nature of the service offered (e.g. a scenic rail tour & dinner package) a requirement to provide information on the "fastest trip" may not be relevant.
- 9.6** In other respects, the different type of service and booking arrangements will make no difference from the passenger's perspective. For example, if a charter service was significantly delayed, a charter train passenger would benefit from the delay compensation arrangements in Article 17 of the PRO just like any other rail passenger. Robust evidence will need to be provided to justify a different approach to exemptions.
- 9.7** The Department is also aware that Charter train operators already have the same requirements as other train operating companies in some areas. For example, they are already required under their licences to be a party to and to comply with the Claims Allocation and Handling Agreement.
- 9.8** Like other train operating companies, this means in practice they are already likely to be meeting the requirements in Article 14 of the PRO. Similarly given the flexibility in Article 5 of the PRO concerning the carriage of bicycles, it is unlikely that there would be any cost implications for charter operators as a result of removing this exemption.
- 9.9** When the Department is taking the decision in 2015 to maintain or remove an exemption, we will take into account, in a transparent and non-discriminatory way, any evidence submitted on the differences between charter and other passenger services which could justify a different approach. We would therefore welcome detailed responses from charter train operators.

Application of the PRO to charter trains

Given that the PRO applies equally to charter passenger services, we would welcome evidence from charter train operators in response to all the questions in this consultation paper including:

specific evidence on the current level of compliance with each Article;

any particular concerns for charter train operators; and the potential costs and impacts of removing an exemption.

Please provide your rationale having regard to impacts and benefits for passengers, and costs to your business.

What will happen next?

Next steps

The current PRO exemptions will be renewed with effect from 4 December 2014. The information gathered during this consultation will be used to inform decisions on options for removing some or all of these exemptions in 2015.

A summary of the responses and the proposed next steps will be published during 2015.

If you have questions about this consultation please contact:

The Rail PRO team at the email address below:

RailPROconsultation@Dft.Gsi.Gov.Uk

Or write to:

Department for Transport, 4/27, 33 Horseferry Road, London SW1P 4DR

Phone Number: 020 7944 5352

Annex A: Impact assessment

The Impact Assessment can be found at the following web address:
<https://www.gov.uk/dft#consultations>

When responding to the consultation, please comment on the analysis of costs and benefits, giving supporting evidence wherever possible.

Please also suggest any alternative methods for reaching the objective and highlight any possible unintended consequences of the policy, and practical enforcement or implementation issues.

Annex B: Consultation principles

The consultation is being conducted in line with the Government's key consultation principles which are listed below. Further information is available at:

<https://www.gov.uk/government/publications/consultation-principles-guidance>

If you have any comments about the consultation process please contact:

Consultation Co-ordinator
Department for Transport
Zone 1/14 Great Minster House
London SW1P 4DR
Email consultation@dft.gsi.gov.uk

Annex C: Accessibility legislation

Disability provisions in the Equality Act 2010 applicable to rail transport

- 1.1** The Equality Act 2010 brought together the different strands of equality law to make it easier to understand. It harmonised and extended protection so that the law is generally uniform across all the protected characteristics.
- 1.2** Station and passenger train operators are required to comply with the disability provisions in section 29 of the Act including the duty to make reasonable adjustments³⁰ unless the provisions of the PRO concerning DPRMs apply³¹. This ensures that any overlap between the PRO and the Act is avoided.
- 1.3** Section 29 protects a disabled passenger against disability discrimination both when requesting a service and during the course of being provided with a service. Service providers are also required to make reasonable adjustments in relation to disabled persons. Schedule 2 to the Act explains how the duty to make reasonable adjustments applies to transport providers so that disabled people can use transport services (including rail).
- 1.4** The duty would apply, for example, to the way trains are operated by requiring train or station staff to assist a person with a mobility impairment in getting on or off a train. It would also apply when travelling in the train, for example, an “at-seat” service for a disabled person who is unable to access the train buffet services. However reasonable adjustments do not have to be made to physical features of existing vehicles (as this is covered by a regulatory regime of its own - see paragraphs 1.6- 1.7 below).
- 1.5** The Act also makes clear that (subject to express provision to the contrary) it would never be reasonable to pass on the

³⁰ Equality Act 2010 s 29(7)(a)

³¹ Equality Act 2010 Schedule 3 (Services and Public Functions Exceptions), Part 9 (Transport), paragraph 34A (Transport by land:rail)

costs of complying with the duty to make adjustments to an individual disabled person³².

- 1.6** The Act includes powers for the Secretary of State to make regulations to ensure that trains, trams and certain other guided transport systems are accessible to disabled people including wheelchair users³³. Such regulations were first introduced in 1998. At that time they applied to all types of passenger rolling stock, and were broadly equivalent to the pan-European standards that came into force in 2008 (see paragraph 1.12 below). In order to avoid dual regulation by the domestic and European regime the scope of the domestic legislation is now restricted to rail vehicles which do not operate on the main rail network to which the EU rules apply. The Rail Vehicle Accessibility (Non- Interoperable Rail System) Regulations 2010 (“RVAR”) made under the Equality Act powers are therefore limited to trams, underground, metro and heritage and tourist railways³⁴.
- 1.7** All rail vehicles operating on such networks must comply with the requirements set out in RVAR, or have an appropriate exemption in place, by no later than 1 January 2020. The PRO does not apply to such vehicles as they do not fall within the scope of the EU licensing regime³⁵.

Railways Licensing regimes

- 1.8** Station and passenger train operators are required as a licence or Statement of National Regulatory Provision (“SNRP”) condition to establish and comply with: i) a Disabled People’s Protection Policy (DPPP); and ii) a detailed body of arrangements, procedures, services and other benefits designed to protect the interests of disabled people and to make trains accessible. In establishing and making any alterations to their DPPP, they must have due regard to the DfT’s Code of Practice: Accessible Train Station Design for

³² Equality Act 2010 s 20(7)

³³ Equality Act 2010, Part 12 (Disabled Persons: Transport), Chapter 3 (Rail Vehicles) ss 182- 187

³⁴ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/273702/approved-list-exclusions-from-RIR.pdf

³⁵ Regulation 4(3) of the Railway (Licensing of Railway Undertakings) Regulations 2005

Disabled People³⁶ and articles 19 and 20(1) of the PRO (see paragraph 1.10).

- 1.9** The ORR is responsible for approving operators' DPPPs or instructing them to carry out a review, and for securing compliance with licence and SNRP conditions.

EU rules for DPRMs

PRO Regulation

- 1.10** At present, only the DPRM rules in articles 19 and 20(1) of the PRO Regulation apply to domestic rail passenger services³⁷. Passenger train and station operators are required by these articles: to make rail transport accessible to DPRMs; to not refuse them travel or require them to be accompanied unless this is strictly necessary to make transport accessible; to not charge them more to travel; and to provide information on accessibility and on-board services. Most of these requirements apply equally to ticket vendors and tour operators. In other respects, domestic rail passenger services must comply with existing domestic rules in the Equality Act.
- 1.11** The ORR is the national enforcement body for the PRO³⁸ which it enforces principally through the railway licensing regimes. The main remedies available to DPRMs if their rights under the PRO have been infringed are damages (including compensation for injury to feelings)³⁹. They can seek assistance from the relevant designated complaints handling bodies: Passenger Focus or London TravelWatch⁴⁰. The Equality and Human Rights Commission can also assist by making arrangements for the provision of conciliation services for disputed claims⁴¹. The remedies are broadly equivalent to those available to disabled passengers under the Equality Act 2010.

³⁶ Required by s71B of the Railways Act 1993

³⁷ Rail Passengers' Rights and Obligations (Exemptions) Regulations 2009 SI 2009/2970, regulation 3(2)

³⁸ Rail Passengers' Rights and Obligations Regulations 2010 SI 2010/1504, regulation 13. The British Transport Police Authority is the enforcement body for article 26 on personal security of passengers.

³⁹ Rail Passengers' Rights and Obligations Regulations 2010 SI 2010/1504, regulation 11

⁴⁰ SI 2010/1504, regulation 18

⁴¹ SI 2010/1504, regulation 12

Technical Specification of Interoperability for Persons of Reduced Mobility (“PRM TSI”⁴²)

- 1.12** Technical Specifications of Interoperability (“TSIs”) are pan-European standards which are intended to harmonise technical requirements across Europe’s railways, so facilitating cross-border traffic and lowering costs.
- 1.13** The PRM TSI came into force in July 2008 and set out technical access standards that must be achieved on new stations and trains, and on older sites and vehicles when they undergo major work. It currently applies only to the Trans-European Network (“TEN”) of major routes in each Member State. For clarity, in Great Britain, we assumed that all main line trains would at some point operate on the TEN and would therefore become subject to the PRM TSI. In order to avoid dual regulation with our existing rail vehicle accessibility requirements, we reduced the scope of the latter standards such that they only applied to trams, underground, metro and heritage and tourist railways.
- 1.14** For stations off the TEN, or as a standard for when only minor work is undertaken, the DfT’s Code of Practice: Accessible Train Station Design for Disabled People applies. This was amended in 2008 to require the same standards as in the PRM TSI so that, while the application regime may differ, passengers would find the same standards of accessibility applied whenever a station upgrade takes place.
- 1.15** The PRM TSI has been undergoing revision, and a new version will apply from 1 January 2015. The new EU legislation will apply across the whole of the EU heavy rail network, rather than being limited to the TEN.
- 1.16** Domestic legislation requires all main line passenger trains to comply with the PRM TSI by 1 January 2020 (except to the extent that they already comply with the earlier domestic standard - Part 1 of Schedule 1 to RVAR - or there is an approved derogation in place).

⁴² Commission Decision of 21 December 2007 concerning the technical specification of interoperability relating to “persons with reduced mobility” in the trans-European conventional and high-speed rail system (as amended by Commission Decision 2012/464/EU of 23 July 2012)

Annex D: Reference documents

Text of EC Regulation No.1371/2007 of the European Parliament and Council Rail Passengers Rights and Obligations

- <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2007:315:0014:0041:EN:PDF>

ACoP on Passenger Information During Disruption (March 2012)

- [http://www.atoc.org/clientfiles/files/ACOP015v3%20-%20PIDD%20\(2\).pdf](http://www.atoc.org/clientfiles/files/ACOP015v3%20-%20PIDD%20(2).pdf)

How to write your Disabled People's Protection Policy: A guide for train operators and station managers (November 2009)

- <http://orr.gov.uk/what-and-how-we-regulate/licensing/licensing-railway-operators/licence-obligations/disabled-peoples-protection-policy>

Guidance on Complaints Handling Procedure (February 2005)

- http://orr.gov.uk/_data/assets/pdf_file/0004/4288/sra-complaints-handling.pdf

National Rail Conditions of Carriage

- http://www.nationalrail.co.uk/times_fares/46427.aspx

Department for Transport Guidance Note on Regulation No 1371/2007 of the European Parliament and of the Council, Rail Passengers' Rights and Obligations

- https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/2368/guidance-note.pdf

Rail Vehicle Accessibility Regulations (RVAR) 1998

- <http://www.legislation.gov.uk/ukxi/1998/2456/contents/made>

The Rail Vehicle Accessibility (Non- Interoperable Rail System) Regulations 2010 (“RVAR”)

- <http://www.legislation.gov.uk/ukxi/2010/432/schedule/1/made>

DfT’s Code of Practice: Accessible Train Station Design for Disabled People

- https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/3191/accessible-train-station-design-cop.pdf

Technical Specification of Interoperability for Persons of Reduced Mobility (PRM TSI)

- <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:064:0072:0207:EN:PDF>

Railways Act 2005

- <http://www.legislation.gov.uk/ukpga/2005/14/contents>

Railways Closure Guidance 2006

- <http://webarchive.nationalarchives.gov.uk/+http://www.dft.gov.uk/pgr/rail/legislation/sgd/railwaysclosuresguidancea/railwaysclosuresguidance.pdf>

Equality Act 2010

- <http://www.legislation.gov.uk/ukpga/2010/15/contents>

