



The Equality Act 2010

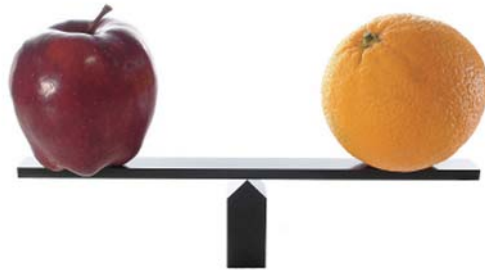
What does it mean for train operators?

April 2010

The Equality Act has now become law and some key areas are expected to come into force in October 2010.

In a nutshell the Act will...

- harmonise the core provisions of the different types of discrimination law into one statute;
- revoke the Disability Discrimination Act 1995 (as amended) ('DDA').
- the Act replicates the provisions of the DDA relating to rail vehicle accessibility including the parts of the DDA which were not brought into force dealing with compliance certification and the enforcement regime including penalties for non-compliance.
- allow the Secretary of State to make "rail vehicle accessibility regulations" to ensure that disabled customers can:
 - get on and off regulated rail vehicles in safety and without unreasonable difficulty;
 - travel in regulated rail vehicles in safety and reasonable comfort; andto do so while in wheelchairs.
- allow the Secretary of State to make exemption orders authorising a regulated rail vehicle to be used in passenger service even though it does not comply with accessibility standards.
- see also our briefings on Service Providers and the Public Sector as these highlight issues relevant to train operators as well.



Current law

What existing statutes dealing with discrimination affect train operators?

- The DDA imposes a duty on train operators to take reasonable steps to ensure that disabled customers are able to use their services. (DDA revoked by the Equality Act.)
- European accessibility standards (the Technical Specification for Interoperability for Persons with Reduced Mobility 'PRM TSI') introduced in July 2008 and cover heavy rail vehicles and stations on the strategic Trans-European Network. (Not specifically affected by the Equality Act.)
- Obligations regarding disabled passengers also arise under the provisions of the EU Passenger Rights Regulation which came into force December 2009.
- Domestic rail vehicle accessibility regime which applies only to light rail vehicles (i.e. does not cover those vehicles that are covered by the PRM TSI). The current Regulations, the Rail Vehicle Accessibility Regulations 1998, were revoked on 6 April 2010 when they were replaced by the Rail Vehicle Accessibility (Non-Interoperable Rail System) Regulations 2010. (Any Exemption Orders made under the 1998 Regulations will continue to have effect.)

Rail vehicle accessibility regulations under the Equality Act

- The Act replicates the provisions in the DDA relating to rail vehicle accessibility.
- The narrow definition of "rail vehicle" means that the provisions are limited to rail vehicles not used for passenger services "on the high-speed rail system or the conventional TEN rail system" (which are covered by PRM TSI).
- Any rail vehicle accessibility regulations made under the Act will therefore apply for the most part only to light rail vehicles including underground and tram systems.
- The Government must ensure that they make rail vehicle accessibility regulations under the Act so that by 1 January 2020 every rail vehicle is a regulated rail vehicle.
- The Rail Vehicle Accessibility (Non-Interoperable Rail System) Regulations 2010 came into effect on 6 April 2010. The 2010 Regulations are made under the DDA but clearly link into the provisions of the Equality Act. The 2010 Regulations include a number of amendments to the technical accessibility requirements based on experience of using the 1998 Regulations and reflecting its future focus on light rail services only.

Exemptions from rail vehicle accessibility regulations

- There are powers to make exemption orders authorising a regulated rail vehicle to be used for passenger services even though it does not comply with accessibility standards.
- The provisions replicate those in the DDA and an exemption order can be used to exempt a specified rail vehicle, or a rail vehicle of a specified description or a rail vehicle used in specified circumstances. So, for example, all vehicles used on a particular network (such as a heritage or tourist railway or tramway) could be exempted.
- The Act sets out the procedure for making exemption orders.

Rail vehicle accessibility – compliance

- Again the provisions replicate the DDA, however, the relevant DDA provisions were not brought into force. Last year the Department for Transport consulted to reappraise the introduction of the DDA's regime for compliance certification and civil enforcement powers for rail vehicle accessibility. The reason for including the provisions in the Equality Act is to accommodate possible outcomes from the consultation exercise (i.e. implementation of compliance certification and civil enforcement powers).

What to do next

What do I need to do now?

- Review the new Rail Vehicle Accessibility (Non-Interoperable Rail System) Regulations 2010 (at http://www.opsi.gov.uk/si/si2010/pdf/uksi_20100432_en.pdf).
- Keep up to date with any new Regulations made under the Equality Act.

More information

If you would like further information on the other aspects of the Equality Act 2010, we also have specific briefings for:

- Employers
 - Landlords and property managers
 - The public sector - *particularly relevant to train operators*
 - Service providers (private and public sector) – *particularly relevant to train operators*
 - Pension schemes
- Visit our website at www.burges-salmon.co.uk

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