

**EXPLANATORY MEMORANDUM TO**  
**THE DISABILITY DISCRIMINATION (TRANSPORT VEHICLES) REGULATIONS**  
**2005**

**2005 No. 3190**

1. This explanatory memorandum has been prepared by the Department for Transport and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. **Description**

2.1 The effect of this instrument is to impose, either in total or in part, the duties contained in Part 3 (access to goods, facilities and services) of the Disability Discrimination Act 1995 (DDA 1995) on the providers of certain land-based transport services. The services affected are those provided using trains (including light rail, underground and trams), buses, coaches, taxis and private hire vehicles - as well as vehicle hire services, breakdown services and vehicles used on leisure and tourism services.

3. **Matters of special interest to the Joint Committee on Statutory Instruments**

3.1 The regulations will come into force on 4 December 2006. It has been necessary to lay them in advance to allow for the Parliamentary process to introduce the Disability Rights Commission's associated Code of Practice. The Government wants the Code to be in place in advance of the duties coming into force to give operators time to make any necessary adjustments. The Commission completed consultation<sup>1</sup> on a draft code on 19 August 2005.

4. **Legislative Background**

4.1 Section 19(5) of the DDA 1995 contained a specific exemption for the operators of transport services from the provisions of Part 3 of the DDA 1995, which makes it unlawful for the providers of services to discriminate against disabled people in the provision of goods, facilities and services.

4.2 The effect of amendments to the DDA 1995, made by provisions in the Disability Discrimination Act 2005 (DDA 2005), was to replace this exemption with a new one which is more precise, applying only to transport services consisting of the provision and use of a vehicle, thereby clarifying that the providers of services in respect of transport infrastructure, such as stations, airports and ports, are already subject to these duties. It also provided a regulation-making power to enable the Secretary of State to lift that exemption. This power enables the exemption to be lifted for different vehicles at different times and to differing extents.

4.3 This is the first instrument to be made under these provisions.

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<sup>1</sup> Draft Code of Practice on the provision and use of transport vehicles, Disability Rights Commission, May 2005. Available from <http://www.drc.org.uk/thelaw/transportcodes.asp>.

## **5. Extent**

5.1 This instrument applies to Great Britain (Northern Ireland is developing its own proposals).

## **6. European Convention on Human Rights**

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

## **7. Policy background**

7.1 The Disability Rights Task Force (DRTF) in its final report, *From Exclusion to Inclusion*<sup>2</sup> (published in December 1999), made 156 recommendations (both legislative and non-legislative) across a number of areas of Government policy including transport.

7.2 In its 2001 response to that report, *Towards Inclusion*<sup>3</sup>, the Government indicated it had accepted the majority of those recommendations including in relation to this instrument:

- removing the exemption for the operators of land-based transport services from (a) the legal requirement not to discriminate against disabled people in the provision of goods, facilities and services, and (b) the duty of service providers, where they have a policy, practice or procedure which means that disabled people find it impossible or unreasonably difficult to use the service, to make reasonable adjustments to redress the problem; and
- applying the DDA 1995 access to services provisions to vehicle hire and breakdown recovery services.

7.3 The Government took this forward by enacting the DDA 2005, which amended the DDA 1995 to introduce a regulation-making power enabling the Secretary of State to lift the revised exemption for specified vehicles. This instrument will impose, either in total or in part, the Part 3 duties on the operators of transport services who use the types of vehicles listed in paragraph 2.1.

7.4 Initial consultation on policy proposals was undertaken in November 2002<sup>4</sup>. The consultation paper specifically invited comments on any additional benefits or costs that could result from the removal of the Part 3 exemption and what a reasonable timescale for the introduction of the measures might be. A total of 83 responses was received, all of which widely welcomed the proposals, with many service providers claiming that they were acting as though the Part 3 duties already applied to them. Although positive about the proposals, disability groups did not believe they went far enough and expressed concern that aviation and shipping services would not be

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<sup>2</sup> *From Exclusion to Inclusion*, DRTF, December 1999. Available from [http://194.202.202.185/drtf/full\\_report/index.html](http://194.202.202.185/drtf/full_report/index.html).

<sup>3</sup> *Towards Inclusion - Civil Rights for Disabled People*, DfEE, March 2001, ISBN 1-84185-480-8. Available from [http://194.202.202.185/drtf/towards\\_inclusion/index.html](http://194.202.202.185/drtf/towards_inclusion/index.html).

<sup>4</sup> DDA 1995: Consultation on the Government's proposals to lift the exemption for transport services from some of the civil rights duties in Part 3 of the DDA, DfT, November 2002. Available from [www.dft.gov.uk/stellent/groups/dft\\_mobility/documents/divisionhomepage/028935.hcsp](http://www.dft.gov.uk/stellent/groups/dft_mobility/documents/divisionhomepage/028935.hcsp).

covered in initial regulations. There were also calls for vehicles used to provide leisure and tourism transport services to be brought within scope.

7.5 A letter outlining the outcome of the consultation was sent to all respondents indicating that the Government would develop, in conjunction with the Disabled Persons Transport Advisory Committee (DPTAC, its statutory advisers on the transport needs of disabled people), voluntary codes of practice for both aviation and shipping industries since they were largely international modes of travel not covered by the DDA 1995 and accessibility was already being addressed at that level. The codes would be monitored to ascertain their effectiveness and a commitment given to legislate in future should the voluntary approach prove ineffective. The Government also accepted calls for Part 3 to be extended to vehicles used on leisure and tourism transport services and indicated that these would be covered in initial regulations. A more detailed analysis of responses is available on the Department's web site<sup>5</sup>.

7.6 Further consultation on draft regulations<sup>6</sup> was undertaken in November 2004 during the passage of the DDA 2005 through Parliament. Consultees were asked in particular whether the definitions of the services to be included were sufficient to cover the intended services, the timetable for implementation in December 2006 was reasonable and whether the associated draft Regulatory Impact Assessment presented a realistic assessment of the likely costs and benefits of introducing the regulations. The majority of the 51 responses received, including those from DPTAC and the Disability Rights Commission, supported the detailed proposals with no strong objections being received.

7.7 However, the vehicle hire services industry argued for greater certainty about what was required (as they are the only sector of transport service providers to which the duty to make physical adjustments will apply). In addition there were concerns that the industry could have been left open to challenge to modify equipment such as air conditioning systems, etc, on a wide range of vehicles to meet the needs of specific customers and it was noted that the duties other service providers are under in this respect are defined in regulations. The industry also argued in favour of limiting the application of the duties relating to physical features to M1 vehicles (those designed and constructed for the carriage of passengers and comprising no more than eight seats in addition to the driver's seat) which constitute the vast majority of the vehicle-hire fleets. Extending the scope of physical features element of the regulations to larger passenger and goods hire vehicles might expose the industry to unreasonable burdens and costs although hire companies would still be under a duty to review their practices, policies and procedures and provide auxiliary aids in respect of such vehicles. For disabled people, the changes would clarify the extent of their rights.

7.8 The Government accepted these arguments and has revised the regulations in consultation with affected stakeholders and the Disability Rights Commission. A

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<sup>5</sup> Consultation response summary on proposals to lift the exemption for transport services from some of the civil rights duties in Part 3 of the Disability Discrimination Act. Available from [www.dft.gov.uk/stellent/groups/dft\\_mobility/documents/divisionhomepage/028935.hcsp](http://www.dft.gov.uk/stellent/groups/dft_mobility/documents/divisionhomepage/028935.hcsp).

<sup>6</sup> Consultation on lifting the exemption from Part 3 of the Disability Discrimination Act 1995 for Public Transport, Vehicle Hire, Breakdown and Leisure and Tourism Transport Services, DfT, November 2004. Available from [http://www.dft.gov.uk/stellent/groups/dft\\_control/documents/contentservertemplate/dft\\_index.hcst?n=12489&l=2](http://www.dft.gov.uk/stellent/groups/dft_control/documents/contentservertemplate/dft_index.hcst?n=12489&l=2)

summary of responses to the consultation on draft regulations is also available on the Department's web site<sup>7</sup>.

7.9 More information about how the provisions of Part 3 of the DDA 1995 will be applied to these transport services can be found in the attached Regulatory Impact Assessment.

## **8. Impact**

8.1 A Regulatory Impact Assessment is attached to this memorandum.

8.2 The impact on the public sector is negligible.

## **9. Contact**

Sue Sharp at the Department for Transport (Tel: 020 7944 4917 or e-mail: sue.sharp@dft.gsi.gov.uk) can answer any queries regarding the instrument.

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<sup>7</sup> Consultation response summary on lifting the exemption from Part 3 of the Disability Discrimination Act 1995 for Public Transport, Vehicle Hire, Breakdown and Leisure and Tourism Transport Services. Available from [www.dft.gov.uk/stellent/groups/dft\\_mobility/documents/page/dft\\_mobility\\_038254.hcsp](http://www.dft.gov.uk/stellent/groups/dft_mobility/documents/page/dft_mobility_038254.hcsp).

## **Regulatory Impact Assessment**

### **The Disability Discrimination (Transport Vehicles) Regulations 2005**

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## **1 Title**

**1.1** Regulatory impact assessment (RIA) on regulations lifting the exemption for public transport - trains (including light rail, underground and trams), buses, coaches, taxis and private hire vehicles - vehicle hire, breakdown services and vehicles used in leisure and tourism transport services from some of the provisions of Part 3 of the Disability Discrimination Act 1995<sup>8</sup> (DDA 1995).

## **2 Purpose and intended effect**

### **2.1 Issues and objective**

**2.1.1** The Government is committed to establishing comprehensive and enforceable civil rights for disabled people including, with respect to this RIA, regulations removing the anomalous exemption for the transport services listed above from some of the civil rights duties in Part 3 of the DDA 1995. An explanation of these duties can be found in Section 2.2.

**2.1.2** Provisions enabling the removal of the exemption, by regulations, were included in the Disability Discrimination Act 2005<sup>9</sup> (DDA 2005). The provisions allow Part 3 of the DDA 1995 to be applied to different vehicles at different times and to differing extents. These are the first regulations to be made under this power and will introduce, from 4 December 2006 when they come into effect, new requirements on the operators of the prescribed transport services to ensure that they do not unreasonably discriminate against disabled people. For example, it will deal with gratuitous discrimination where a bus driver was previously able to refuse to allow a disabled person to board their vehicle, even if this is otherwise accessible to them, for no other reason than their disability.

**2.1.3** These regulations apply to England, Scotland and Wales.

### **2.2 Background**

**2.2.1** Part 3 of the DDA 1995 gives disabled people a "right of access" to goods, services and facilities. The Act imposes specific duties on service providers and these have been introduced incrementally:

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<sup>8</sup> Disability Discrimination Act 1995, TSO, ISBN 0-10-545095-2, £9.55.

<sup>9</sup> Disability Discrimination Act 2005, TSO, ISBN 0-10-541105-1, £7.50.

- **Since 2 December 1996** it has been unlawful for service providers to discriminate against a disabled person in refusing to provide, or deliberately not providing, a service which is provided to other members of the public. It has also been unlawful to provide a service of a lower standard, or on less good terms than that available to other members of the public.
- **Since 1 October 1999** service providers have been required to take reasonable steps to change practices, policies or procedures that make it impossible or unreasonably difficult for disabled people to use a service. Also, where a physical feature makes it impossible or unreasonably difficult for a disabled person to use a service, the provider has been under a duty to provide a reasonable alternative way of making the service available.
- **Since 1 October 2004** service providers have had to take reasonable steps to remove, alter, or provide means of avoiding physical features that make it impossible or unreasonably difficult for disabled people to use a service.

**2.2.2** Transport infrastructure, such as stations and airports, is already covered by these provisions but an exemption for the operators of transport services was included<sup>10</sup>. It was decided at the time that simply giving disabled people "rights" in respect of public transport would not deliver the effective and sustainable transport solutions needed. For that reason, Part 5 of the DDA 1995 was introduced to provide for detailed technical requirements to be made for rail vehicles, buses, coaches and taxis. This would allow the Government to specify dimensions that it knew could meet the needs of disabled people and which could be applied to all relevant transport modes to give disabled people the reassurance of consistency.

**2.2.2** However, the wording of the Part 3 exemption for transport services left it open to interpretation and, in its report<sup>11</sup> to the Government, the Disability Rights Task Force (DRTF)<sup>12</sup> recommended that the exemption should be lifted, at least in part. That recommendation was accepted in the Government's response, "Towards Inclusion"<sup>13</sup>.

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<sup>10</sup> Section 19(5)(b) of the Disability Discrimination Act 1995.

<sup>11</sup> From Exclusion to Inclusion, DRTF, December 1999.

<sup>12</sup> The DRTF was established in 1997 to consider how best to deliver the Government's manifesto commitment to comprehensive and enforceable civil rights for disabled people.

<sup>13</sup> Towards Inclusion - Civil Rights for Disabled People, DfEE, March 2001, ISBN 1-84185-480-8.



**2.2.3** Public transport plays a major role in providing independent mobility for disabled people and heads their concerns when asked unprompted<sup>14</sup>. Existing regulations introduced under Part 5 of the DDA 1995 require new bus, coach and rail vehicles to be accessible and, in due course, similar requirements will apply to taxis.

**2.2.4** To have mandatory requirements for accessible vehicles and related infrastructure, but not for the services provided with them, is an anomaly which could lead to gratuitous discrimination, reducing the effectiveness of the vehicle design regulations made under Part 5 of the DDA 1995.

**2.2.5** A proportion of the bus and rail industries have voluntarily undertaken improvements to the services that they provide to disabled people. Primarily such improvements have been achieved by ensuring that staff receive disability awareness training. There is, however, room for improvement and for standards to be more consistent. This is particularly important if disabled people are to have the confidence to use public transport services.

**2.2.6** In the coach, taxi and private hire vehicle industries, disability awareness training and consequential improvements in services to disabled people are much less comprehensive. This has resulted in a situation where, for example, some drivers of otherwise accessible taxis still refuse access to wheelchair users. The latest London Taxicard<sup>15</sup> statistics available indicate that, of the 2,302 complaints received in London during 2002-03, over 15 per cent (345) concerned driver conduct. Issues ranged from refusing carriage to disabled people to failing to secure the wheelchair properly inside the taxi. Lifting the exemption from Part 3 for these services would provide legal redress against such discrimination.

**2.2.6** For those who rely on private cars, recovery from a breakdown and the ability when necessary to hire a vehicle they are able to drive are of importance. The major organisations providing vehicle breakdown and recovery have also improved the level of service to their disabled members, as have some vehicle hire companies. It is likely, however, that further improvements will not take place across the industry without legislation.

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<sup>14</sup> Attitudes of Disabled People to Public Transport, MORI on behalf of the Disabled Persons Transport Advisory Committee, 2002. Available from [www.dptac.gov.uk/research/apt/index.htm](http://www.dptac.gov.uk/research/apt/index.htm).

<sup>15</sup> Taxicard is a scheme providing subsidised door-to-door transport for people who have serious mobility impairments and experience difficulty in using public transport. The London Taxicard Scheme is funded by the participating London boroughs and the mayor of London. More information can be found on [www.taxicard.org.uk](http://www.taxicard.org.uk).

## **2.3 Rationale for government intervention**

**2.3.1** The importance of transport in maintaining quality of life and its impacts on other areas of daily life cannot be overstated. The present inconsistency between modes and the discriminatory behaviour of some public transport operators, remain a cause for concern. Without the impetus for improvement which only legal protection can provide, disabled people will continue to be discriminated against by transport service providers who would be exempt from the duties all other service providers are already under.

**2.3.2** Some indication of the scale of the problem can be gained from the level of complaints recorded by the Disability Rights Commission (DRC). The Commission's Annual Report<sup>16</sup> states that its helpline received a total of 119,633 enquiries during 2003-04, of which 1,384 cases of discrimination were taken further. 37 per cent (over 500) of these, by far the largest proportion, concerned people with mobility impairments. Whilst these figures are not further disaggregated, they do reinforce the importance of these issues.

**2.3.3** Disabled people should not lose their civil rights against less favourable treatment just because they board a bus or train. It is vital that this anomaly is rectified to ensure that disabled people have the confidence to use transport services in the knowledge that they are protected by comprehensive and enforceable civil rights, as they already are when using other services.

**2.3.4** These regulations will create new civil rights for the estimated 10 million disabled people covered by the DDA 1995<sup>17</sup>. They address a current weakness in the Act, identified by the DRTF, which allows the providers of transport services to discriminate unreasonably against disabled people. The Government believes that the services covered in the regulations will have the biggest effect on the day-to-day mobility of disabled people.

**2.3.5** Were these regulations not made, disabled people would continue to face discrimination in accessing public transport, vehicle hire and leisure and tourism transport services that other members of society do not experience.

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<sup>16</sup> 2003-04 Annual Report of the Disability Rights Commission, DRC, July 2004.

<sup>17</sup> Family Resources Survey 2002-03, Department for Work and Pensions, 2003.

## **3 Consultation**

### **3.1 Within government**

**3.1.1** Consultation on the proposal has taken place with other Government Departments with a policy interest, the Better Regulation Executive and the Small Business Service.

### **3.2 Public consultation**

**3.2.1** Initial consultation on policy proposals was undertaken in 2002. Both the consultation document and a summary of responses is available on the Department's web site<sup>18</sup>.

**3.2.2** Further consultation on draft regulations<sup>19</sup> was completed during the passage of the DDA 2005 through Parliament. Responses to both exercises indicated that the Government's proposals were widely welcomed and supported by disability organisations.

**3.2.3** Concerns were expressed that aviation and shipping services were not covered in the regulations. The Government made its position regarding these services clear in both consultation documents. Voluntary codes of practice are currently in place for both sectors and research projects to monitor compliance are due to report around the end of 2005. The Government is committed to regulating should the voluntary approach prove ineffective and these reports will inform decisions on any future legislation. The powers in the DDA 2005 are flexible enough to bring both aviation and shipping services within scope of Part 3 of the DDA 1995 without the need for further primary legislation. This approach was supported by many disability organisations, including the Disabled Persons Transport Advisory Committee, who felt that the codes of practice should be given time to work.

**3.2.4** Industry responses were also positive with most companies claiming they were acting as though the provisions of Part 3 of the DDA 1995 already applied to them. Although the duty to make physical alterations will only apply to vehicle hire services, concerns were raised that the lack of a definition of those alterations in the regulations could lead to disabled people being uncertain about what to expect and a subsequent increase in contentious litigation, especially given the

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<sup>18</sup> [www.dft.gov.uk/stellent/groups/dft\\_mobility/documents/page/dft\\_mobility\\_033460.hcsp](http://www.dft.gov.uk/stellent/groups/dft_mobility/documents/page/dft_mobility_033460.hcsp)

<sup>19</sup> Consultation on lifting the exemption from Part 3 of the Disability Discrimination Act 1995 for Public Transport, Vehicle Hire, Breakdown and Leisure and Tourism Transport Services, Department for Transport, November 2004. Available from

[www.dft.gov.uk/stellent/groups/dft\\_control/documents/contentservertemplate/dft\\_index.hcst?n=12489&l=2](http://www.dft.gov.uk/stellent/groups/dft_control/documents/contentservertemplate/dft_index.hcst?n=12489&l=2).

complex nature of the vehicles in question. These calls were accepted and the regulations revised accordingly in consultation with affected stakeholders.

**3.2.5** The Disability Rights Commission has also consulted on a draft code of practice<sup>20</sup> it has produced to inform the transport industry's response to the forthcoming duties (as it has done for other service providers<sup>21</sup>). The Government wants this to be in place in advance of the duties coming into force on 4 December 2006 to allow operators sufficient time to make any necessary adjustments.

## **4 Options**

**4.1** Three options are available to the Government concerning discrimination against disabled people in the provision of transport:

**Option 1** - Do nothing.

**Option 2** - Rely on voluntary compliance by the transport sector with the measures relating to the provision of services in Part 3 of the DDA.

**Option 3** - Legislate to remove the exemption for the transport sector.

**4.2** Option 1 would ignore the legitimate expectations of disabled people and would run counter to the Government's 2001 Manifesto commitment on extending the basic rights and opportunities for disabled people which states:

“Our ambition is to enable people with disabilities to play a full part in the community...We are now committed to extending basic rights and opportunities, as indicated in our response to the Disability Rights Task Force.”

**4.3** The Manifesto also commits to:

“Change in our public services so that they better advance equality of opportunity.”

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<sup>20</sup> Draft code of practice on the provision and use of transport vehicles, Disability Rights Commission, May 2005. Available from [www.drc.org.uk/thelaw/transportcodes.asp](http://www.drc.org.uk/thelaw/transportcodes.asp).

<sup>21</sup> Code of Practice - Rights of Access to Goods, Facilities, Services and Premises, Disability Rights Commission, 2002, ISBN 0-11-702860-6. Available from [www.drc-gb.org/publicationsandreports/publicationdetails.asp?id=223&section=access](http://www.drc-gb.org/publicationsandreports/publicationdetails.asp?id=223&section=access).

**4.4** In addition, the 10 Year Plan for Transport<sup>22</sup> set out the Government's commitment to public transport that is accessible to disabled people. The plan states that:

"Building in accessibility for disabled people in all new investment is a condition of public money being spent. Local authorities and transport operators should ensure that the transport needs of disabled people are factored into their plans and that the full benefits of improved public transport are accessible to all." (paragraph 6.5)

**4.5** Whilst improvements have been made, most notably through the provision of best practice guidance, there is still a major disparity within and between modes of transport. The resulting lack of consistency across transport services could prevent disabled people from travelling, particularly if they have previously had an unpleasant experience. The Government believes that the only way to combat this is to make all transport operators subject to the same duties as other service providers by applying some of the civil rights provisions of Part 3 of the DDA 1995 to them.

**4.6** While Option 2 would build on the progress that has already been made in some areas of transport provision, it would not provide disabled people with confidence in the transport network as a whole. If a voluntary approach were taken, this would not result in the same legally enforceable rights as disabled people already have when using other services and instances of discrimination would continue. In common with Option 1, it would also not deliver against the Government's Manifesto and policy commitments.

**4.7** The Government proposes that the best course of action to ensure a consistent level of service to disabled people across the full range of transport services is to pursue Option 3 and to remove the current exemption from compliance with the Part 3 provisions. This RIA is based on regulations to bring public transport, vehicle hire, breakdown services and leisure and tourism transport services within the scope of Part 3 of the DDA 1995.

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<sup>22</sup> Transport 2010 - The 10 Year Plan, Department for Transport, July 2000.

## **5 Costs and benefits**

### **5.1 Sectors and groups affected**

**5.1.1** The regulations will apply to public transport services - trains (including trams and light rail), buses, coaches, taxis and private hire vehicles - together with vehicle hire, breakdown services and vehicles used on leisure and tourism transport services.

**5.1.2** The new duties significantly extend disabled peoples' rights when travelling on these transport services (see section 5.2 for a summary of the benefits the regulations are likely to have, including enhanced mobility and a reduction in social exclusion). No significant environmental issues are likely to arise as a result of their introduction.

**5.1.3** These proposals have been assessed in accordance with the duties contained in the Race Relations (Amendment) Act 2000. It is not anticipated that they will have any discriminatory or adverse impacts on minority ethnic communities.

### **5.2 Benefits**

**5.2.1** The regulations are consistent with the Government's policy of developing comprehensive and enforceable civil rights for disabled people. Once enacted, the extension of some of the duties in Part 3 of the DDA 1995 to public transport, vehicle hire, breakdown and leisure and tourism transport services will result in improved mobility for the estimated 10 million disabled people covered by the DDA 1995<sup>23</sup>.

**5.2.2** Many of the duties placed on the providers of transport services by the removal of the exemption from Part 3 of the DDA 1995 can be met by ensuring that staff have good training in disability awareness. Such training should greatly reduce the discrimination which disabled travellers sometimes experience which is often caused by a lack of awareness or ignorance rather than intent. Other members of society should also benefit from improved levels of customer service as a result. The costs associated with awareness training are outlined in section 5.3 below.

**5.2.3** The new duties introduced by these regulations will improve access to other services, such as healthcare, and to a wider range of facilities and activities (including employment) enabling disabled people to play a fuller role in the economy and in society and helping to reduce social exclusion. The provision of improved legal rights and protection for

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<sup>23</sup> Family Resources Survey 2002-03, Department for Work and Pensions, 2003.

disabled people when travelling on public transport will result in more transport services becoming accessible in the fullest sense of the word.

**5.2.4** Whilst it is not possible to quantify these benefits accurately in financial terms, transport service providers could expect to see increasing numbers of disabled people using their services over time.

## **5.3 Costs**

**5.3.1** As virtually all service providers in the sectors covered by the regulations will be affected, it is impossible to identify a typical business. In part this is due to the wide diversity of the services provided, but also because the extent and consequent cost of any adjustments will vary considerably.

**5.3.2** However, to illustrate the likely impacts and costs of the legislation, the following paragraphs consider each sector in turn and estimates the order of costs expected for a typical businesses within those sectors. It should be remembered that the cost to individual service providers will be limited by the fact that the legislation requires them to do only what is reasonable in the circumstances of the case.

### **Rail services**

**5.3.3** There are three aspects of Part 3 legislation that could affect rail services. The first of these is the requirement to provide an alternative catering service where disabled people cannot get to the buffet or dining car and assistance from staff where passengers have a sensory or physical impairment.

**5.3.4** Train operators have different policies on the provision of refreshments and varied styles of service, in some cases on the same train. For example, on some services, a full dining service is offered. In these circumstances train staff could either assist the disabled passenger to the dining car or, if that is not possible, provide the service at the passenger's seat. This would, of course, only apply where the disabled person was travelling in the eligible class.

**5.3.5** Trolley services, sometimes provided alone, sometimes with a buffet service should not be a problem as they come to the passenger. Where there is only a buffet service, train staff could be expected to bring any refreshments to disabled passengers if they were not able easily to get to the buffet car.

**5.3.6** Essentially the provision of this kind of assistance is a management matter. Train staff will require clear instructions on what to do under the various circumstances and the train operators will need to make sure that the appropriate service is provided. There should not be any additional costs provided the service is efficiently managed.

**5.3.7** The second requirement is for training train and platform staff in disability awareness. Training of this kind has been given for many years, starting some time before the privatisation of rail services. A check with the operators in April 2002 showed that all of those companies who provided a response to the request for information were already providing disability awareness training. Eight out of the 16 who replied were using external consultants with the remainder using internal services.

**5.3.8** The Strategic Rail Authority's (SRA's) Code of Practice on Train and Station Services for Disabled Passengers<sup>24</sup> includes a section on staff training setting out the core components of training. The Code also recommends that the Association of Train Operating Companies (ATOC) "...considers and adopts a standard format and content for disability awareness training and disability equality training and the use of associated equipment." With the widespread training already extant in the industry the requirements, so far as compliance with Part 3 is concerned, should not pose more than a marginal additional cost. The direct costs of training provided by external consultancies to one train company average just under £200 per staff member, but there are additional costs in providing cover for staff attending the course. These would take the full cost up to approximately £300 per staff member.

**5.3.9** Newly appointed staff will be trained in disability awareness; it may be reasonable to take these recurring costs as a consequence of the application of Part 3. Staff turnover on rail services is generally quite low - below that of the bus and coach industry. Taking this at five per cent of the total staff of rail travel assistants, operatives and drivers would mean disability awareness training for 2,250 staff each year at a total cost of some £6.75 million.

**5.3.10** The third requirement is of more consequence; the possibility that the 24-hour book-ahead requirement to guarantee assistance particularly for wheelchair users will be removed. Were this to be considered reasonable there could be some significant implications.

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<sup>24</sup> The SRA consulted on a revised Code of Practice as part of their 'Railways for All' consultation package. Responsibility for the Code has now passed to the Department for Transport which will publish a new version in due course. Details of the consultation can be found at [www.dft.gov.uk/stellent/groups/dft\\_mobility/documents/divisionhomepage/031032.hcsp](http://www.dft.gov.uk/stellent/groups/dft_mobility/documents/divisionhomepage/031032.hcsp).



**5.3.11** Two major operators (Thameslink and the company formerly known as WAGN - now part of the One group) and parts of other services (e.g. Chiltern) use driver only trains. The Health and Safety Executive would not countenance drivers helping disabled passengers on and off trains. Therefore the disabled passenger would be wholly dependent on platform staff for assistance. However, out of a total of some 2,500 stations across the network, approximately 1,000 are unstaffed and a similar number are only staffed at certain times. Some of the latter have only one staff member who operates the ticket office and who, again, may not be able to assist disabled passengers. Even where a member of staff is available, there are stations that have no access for disabled persons to one platform due to the fact that there is only a single entrance to the station and no crossing over the line other than a footbridge only accessible by steps.

**5.3.12** Even on those services that have an additional crew member there could be difficulties if a disabled passenger who requires assistance travels without advance notice. On short trains (those comprising two or four carriages) it would be feasible for the train staff to provide assistance, particularly if, as is the case with some rail vehicles, a lightweight wheelchair ramp is carried on board. On long trains (up to twelve carriages) calling at busy stations, it could be difficult for the staff member to identify the person needing assistance.

**5.3.13** The provisions of Part 3 of the DDA 1995 make allowance for a test of reasonableness. Therefore a service provider must take such steps as are reasonable to change the practice, policy or procedure so that it no longer has the effect of making it impossible or unreasonably difficult for a disabled person to use the service. Whilst train operators might be able to justify not providing access without notice, or at all, to some services such as those at unstaffed stations or at stations where there is no level access, they will need to satisfy themselves on a case by case basis that their actions are justified. Ultimately, where a case is pursued, it will be for the courts to determine taking into account the specific circumstances.

**5.3.14** The costs of fully staffing previously unstaffed stations would be high. Depending on the time period over which trains call at any given station, there could be a requirement for up to three or four staff at each station. Those stations that are partly staffed would need one or two extra staff, again dependent on the period during which the station is used but no staff are present.

**5.3.15** Any calculations of cost can only be indicative, but fully staffing existing unstaffed and partly staffed stations is estimated to cost well in excess of £100 million per annum. If only 25 per cent of unstaffed stations and 50 per cent of part-staffed stations were fully staffed, it is estimated that approximately 1,500 additional station staff would be needed at a total annual cost of approximately £45 million per annum.

**5.3.16** In addition to this recurring cost, new or refurbished staff accommodation would have to be provided at unstaffed stations. It is not possible to estimate how much this would amount to, except to say that the costs would be substantial.

**5.3.17** A mail-back questionnaire survey of Disabled Persons' Railcard holders has been carried out. An analysis of the responses suggests that the requirement to book in advance if assistance is required is not seen as a problem.

**5.3.18** The 400 respondents included 63 wheelchair users (15.8 per cent) and a further 16 (four per cent) who used a scooter. Almost 30 per cent (119 respondents) were blind or partially sighted but the commonest disability was walking difficulty, which applied to almost half the respondents (197, 49.3 per cent)<sup>25</sup>.

**5.3.19** The Railcard holders make significant use of rail services. Almost two-thirds (260 respondents) had used rail services within the previous month, making an average of seven journeys per person over this time. Only four per cent had not made a rail journey in the previous year. Just over half of the respondents (54 per cent) usually travelled with a companion.

**5.3.20** A question was asked about the time in advance that people usually booked their journey. Just over one-third (34 per cent) did not book in advance, a further 30 per cent booked from two to seven days in advance, 17.5 per cent booked two weeks in advance, just under 15 per cent booked three or four weeks ahead.

**5.3.21** About 14 per cent of respondents were wheelchair users who are the group most likely to require assistance within stations and on trains. Of wheelchair users about 80 per cent booked more than 24 hours in advance.

**5.3.22** At the end of the questionnaire, respondents were given the opportunity to write about any aspect – good or bad – of rail services. In

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<sup>25</sup> Percentages sum to over 100 per cent because some respondents recorded more than one impairment.

total almost 450 comments were made covering a very wide range of issues. Although critical comments outweighed positive views by a ratio of about 7:2, a number of criticisms related to the general performance of the rail service. Those included poor timekeeping and unreliability, overcrowding and trains not being kept clean. Lack of staff to provide assistance at stations was mentioned by 32 (eight per cent) respondents, lack of staff help on trains was mentioned by 17 respondents; 16 said that there was still a need for further/better training in disability awareness.

**5.3.23** Notwithstanding these criticisms, about 10 per cent of respondents commented that the rail services were generally good and about 10 per cent said they found rail staff helpful. This emphasises the importance of comprehensive training in disability awareness. The other important, positive, issue with respect to this legislation is that there were only four respondents who mentioned difficulty in getting through to book assistance and there was no criticism of the requirement to book in advance.

**5.3.24** The regulations present no obvious new issues for underground and light rail/tram services. The main difficulty for the former is the station infrastructure. This is already covered by Part 3 of the DDA 1995 and is being addressed. Modern light rail and tram services are, for the most part, fully accessible and their staff, as well as those on the underground services, have had disability awareness training in place for some time. Similarly, for systems like the Heathrow Express where there is no book-ahead requirement and the infrastructure and vehicles are accessible, there are no obvious new issues.

**5.3.25** The regulations also cover the operators of heritage and tourist railways and tramways. A recent assessment of a selection of heritage operators carried out for the Department for Transport (DfT) suggests that nearly all recognise the requirements of disabled passengers. For many heritage operators their passengers are usually also visitors to associated buildings and museums, which are already covered by the provisions of Part 3. Many operators recognise the importance of providing facilities which enable disabled visitors, together with their families and friends, to visit their attractions. Most already provide detailed information for disabled people on the accessibility of their vehicles and sites and also train key staff in disability awareness. There is, however, scope for a more thorough approach based on shared good practice. DfT will continue to work with heritage operators to understand the particular problems they experience and consider how best to disseminate guidance on access issues.

## Costs to service providers: rail services

Item	Non-recurring costs (£m)	Recurring costs (£m pa)
Training in disability awareness	-	6.75
Full staffing of unstaffed and partly staffed stations	substantial	45 -135

## Buses and coaches

**5.3.26** Other than outlawing gratuitous discrimination, the inclusion of bus and coach services within Part 3 of the DDA 1995 should not have a significant effect on the industry. The majority of bus operators, including the five largest operators, all have disability awareness training as part of their employee induction training and are also including existing drivers. Among small- and medium-sized bus operators, disability awareness training has tended to be given on a more ad hoc basis – for example when a company is entering into a Bus Quality Partnership or bidding for a contract – but it is becoming more widespread.

**5.3.27** Within the coach sector, which employs approximately 25-30,000 out of a total of some 150,000 staff in the industry as a whole, disability awareness training is less well developed. However, it is increasing and will be further extended as more fully accessible vehicles come into operation in line with the accessibility regulations introduced under Part 5 of the DDA 1995.

**5.3.28** The “Workforce Development Plan” for the Road Passenger Transport Industry produced by the Passenger Transport Forum for Employee Development (TRANSFED<sup>26</sup>) shows that future skill needs include a requirement for training in disability awareness, referred to as “special needs training” in the recommended Employee Development Plans.

**5.3.29** The Skills Foresight report<sup>27</sup> includes details from the TRANSFED survey 2000, which showed that nearly all those bus firms that responded to the survey had trained their staff in the preceding 12 months. Only a few had trained all their staff, but almost one quarter had trained at least 50 per cent of their staff. Thus the culture of training, including disability awareness, is well established in the sector.

**5.3.30** From discussions with the industry, disability awareness training typically lasts one day. The costs associated with the training include

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<sup>26</sup> TRANSFED has now become GoSkills, the sector skills council for passenger transport.

<sup>27</sup> “Skills Foresight for the Road Passenger Transport Industry” TRANSFED, July 2000.

driver's pay, instructors' costs (including any external trainers) materials and room hire. Classroom training is normally done for groups of drivers, which reduces per capita costs; a similar approach has been used by First when training drivers in the use of the wheelchair passenger lift on the National Express London-Heathrow-Bath coach service. The actual costs vary from company to company depending on pay rates, number of members undergoing training at any one time, use of external instructors etc. Figures provided by the industry range from around £200 to £500 per driver trained; for the purposes of this analysis a mid-point cost of £350 has been taken.

**5.3.31** Ignoring for the moment the large numbers of staff who have already received training, the industry has two aspects to deal with; training existing staff and training new entrants. As a whole the industry employs approximately 120,000 bus and coach drivers. The TRANSFED survey found that there were wide variations in staff turnover, but as a whole the rates were quite low; on average 9.5 per cent for bus companies and 5 per cent for coach companies. Of the 120,000 drivers, it is estimated that approximately 25,000 are coach drivers.

**5.3.32** If the size of the industry remains constant, then training in disability awareness would be needed for some 9,000 bus drivers each year (9.5 per cent of 95,000) and for about 1,250 coach drivers (5 per cent of 25,000). At the cost quoted earlier (£350 per trainee) the total cost to the industry would amount to between £3.5 and £3.6 million per annum. To put this in context, the Confederation of Passenger Transport estimates that the total costs for the whole induction training process are around £45 million per annum.

**5.3.33** The other aspect is completing disability awareness training of existing staff. The proportion who have already received this training is not known, but the TRANSFED survey found that the majority of bus companies (particularly the larger ones) had trained their staff in the preceding year; a few had trained their whole staff in this period and nearly one quarter had trained at least 50 per cent of their staff. The content of this training is not specified but, given the industry's increasing awareness of the importance of customer care (including disabled people), it is reasonable to assume that much of the training given will include disability awareness.

**5.3.34** Training programmes are not as widespread in the coach sector. The TRANSFED survey found that just under half of the responding coach companies had been involved in training during the previous year.

Of these one third (i.e. 15-16 per cent of all) had trained at least 50 per cent of their staff.

**5.3.35** Given that these figures refer to training over a twelve-month period, it could be argued that the industry – and certainly the bus sector – has already absorbed the costs of training in disability awareness for its staff. However, some allowance should be made, as non-recurring costs, to cover those companies that have not yet introduced disability awareness training for their existing staff. The TRANSFED survey returns suggest that about half the coach sector may not have undertaken this training, plus a small proportion of bus companies – mostly small operators. For the purpose of this assessment, this proportion is taken as ten per cent of the bus sector. Thus the costs associated with existing staff are estimated to be £4.38 million for the coach sector (£350 x 12,500 – 50 per cent of coach staff) and £3.33 million for the bus sector (£350 x 9,500 – 10 per cent of bus staff).

**Costs to service providers: bus and coach industry**

Item	Non-recurring costs (£m)	Recurring costs (£m pa)
Training in disability awareness	7.7	3.6

**Taxis and Private Hire Vehicles**

**5.3.36** As with the bus and coach sector, the costs associated with applying Part 3 of the DDA 1995 to the taxi and private hire vehicle (PHV) sectors are those of providing disability awareness training. Recent DfT surveys show that there are approximately 250,000 licensed taxi/PHV drivers in England and Wales. There are a further 20,000 licensed taxi drivers in Scotland, some of whom hold dual taxi/PHV licences; there are no recent figures for the number of licensed PHV only drivers. Thus in total it is estimated that there are about 270,000 licensed taxi and PHV drivers.

**5.3.37** The TRANSFED survey referred to in paragraph 5.3.28 found that training for taxi and PHV drivers is much less common than in the bus and coach sector. In that survey, 57 per cent of the responding firms said that no training was required for their staff (training being on any aspect of providing the service). It is also the case that many drivers are self-employed and would not be subject to training of this kind unless it was a condition of their licence. Some local authorities have introduced training in disability awareness, usually for new drivers, but they are a minority. A review of Local Transport Plans in England showed that one-

third of the unitary authorities (who are licensing authorities) either had or were planning to introduce disability awareness training for taxi drivers - covering approximately 23,000 drivers. Although they are not taxi licensing authorities, five County Councils and three Metropolitan authorities also mentioned policies of encouraging (or in one case, requiring) disability awareness training for taxi drivers.

**5.3.38** In London, the Public Carriage Office (PCO) requires taxi drivers to demonstrate that they can use the wheelchair access equipment (ramp and securement) correctly but, at present, does not have any further training. The London based radio-circuit company, ComCab have a short session on disability awareness in the training given to their drivers. The PCO, which has recently completed the licensing of all PHV drivers in London and now has responsibility for around 40,000 PHV drivers as well as 21,000 taxi drivers, is looking at additional skills training in disability awareness. The course is planned to include recognising and responding to passengers with additional needs including the use of appropriate means of communication, offering appropriate assistance when necessary, adopting a driving technique in accordance with the passenger's needs and awareness of relevant legislation.

**5.3.39** Any authority providing the training will have costs to bear, which would be charged (wholly or partly) to the participating drivers. Current or planned charges are typically £30 to £50, but the main cost will be loss of earnings over the period of training. Taxi driver earnings vary considerably from area to area. An analysis carried out for the Government in 1999 estimated that in larger cities the average gross earnings from full-time taxi work were around £25,000 and elsewhere approximately £17,500. The more comprehensive training programmes take one to two days: if an average of one-and-a-half days is taken then loss of earnings would be about £135 in larger cities and £95 elsewhere (based on 270 working days a year).

**5.3.40** There are no figures available nationally for staff turnover in the taxi and private hire trade. Entry into the trade is still relatively low cost in most parts of the country and turnover depends to a considerable extent on the state of the local economy. However, the generally low levels of unemployment and the, albeit modest, increases in costs of entry are thought to have reduced turnover in recent years. For the purposes of this assessment an annual turnover rate of 12 per cent has been assumed.

**5.3.41** Initial (non-recurrent) costs will apply to the training of existing drivers, thereafter there will be recurring costs of training new entrants.

Due to the relatively low proportion of training currently in place, it is estimated that the initial costs will apply to some 80 per cent of the trade. It is further estimated that approximately 40 per cent of the trade operate in the conurbations/large cities with the higher level of gross earnings and that future new entrants will reflect this 40:60 split between these areas and elsewhere in the country. Based on the figure of 270,000, training of existing drivers would be needed for 216,000 (80 percent of the trade) of whom approximately 80,000 will be from the higher earning areas. Thus the cost in lost earnings for these drivers will amount to approximately £10,800,000 (80,000 x £135) and for the others £12,920,000 (136,000 x £95). The charges made for the course are taken as £40, amounting in total to £8,640,000 (216,000 x £40).

**5.3.42** The recurring costs are those for training new entrants of whom there would be 32,400 each year (12 per cent of 270,000) with an annual earnings loss of around £3.6 million (assuming a continued 40:60 split between higher and lower earnings areas) and a cost in course charges of £1,296,600.

**Costs to service providers: taxi and private hire**

Item	Non-recurring costs (£m)	Recurring costs (£m pa)
Loss of earnings during training	23.7	3.6
Charges for training	8.6	1.3
<b>Total</b>	<b>32.3</b>	<b>4.9</b>

**Vehicle hire services**

**5.3.43** Unlike the providers of other transport services affected by these regulations, the vehicle hire industry will also be subject to the duty to make physical adjustments to their M1 Category vehicles where it is reasonable to do so. There is no requirement to make physical alterations to M2 and N1 category vehicles. In line with the duties other service providers, such as shops and banks, are already under in this respect<sup>28</sup>, a definition of physical features has been included in the regulations. The inclusion of a definition enables the industry to have greater certainty about what is expected from it and limits their liability to those features which could reasonably be altered. It also gives disabled people a clear understanding of their rights in this respect.

<sup>28</sup> The Disability Discrimination (Providers of Services) (Adjustment of Premises) Regulations 2001 [SI 2001/3253 as amended by SI 2004/1429].



**5.3.44** The physical features definition includes hand controls (those that operate braking and accelerator systems) and the provision of a stowage system for a wheelchair. For hand controls, the regulations specifically exclude from the definition electrical systems and fixed seating, and so creates no requirement to alter steering or transmission systems. The effect of the definition is also that the provision of a wheelchair stowage system requirements does not require changes to fixed seating. This section seeks to estimate the number of disabled people who will benefit from the new provisions and the potential costs to the industry of supplying vehicles with these adaptations.

**5.3.45** The principal way in which vehicle hire services could assist disabled drivers is by providing cars fitted with simple devices such as push-pull hand controls and steering wheel spinners. Portable versions of these devices are available (although these tend to be suitable for a limited number of people) and can be fitted and removed quickly without requiring any modifications to be made to the standard car controls. Weekly hire costs for these devices are £130 to £140.

**5.3.46** Major vehicle hire services are already making cars available with these controls, though take-up of them is relatively low at about 700 rentals per annum. Further publicity and making corporate hirers of vehicles aware of this service (for example for any of their staff who may have a permanent or temporary disability) should lead to greater utilisation.

**5.3.47** Permanent hand controls are more expensive (ranging upwards from around £400 including fitting) and take longer to fit. Some are model specific, whereas the portable controls can be fitted to most automatic cars. Larger vehicle hire companies could be expected to have vehicles fitted with permanent hand controls available when the market develops; initially they may wish to reach agreement with the specialist conversion companies to provide this type of vehicle when required.

**5.3.48** A survey carried out by the British Vehicle Rental and Leasing Association (BVRLA) found that the period of advance notice required to make an adapted vehicle available ranged from 48 hours up to (in one case) seven days. For comparison, requests for other non-standard items such as ski racks, also require between 24 to 48 hours notice.

**5.3.49** Adaptations to vehicles may also be required for wheelchair users. Those who can transfer (to the car seat), use a manual chair and have a companion able to fold and stow their wheelchair may not require adaptations. However, if they have no-one who can stow a manual

chair, they will need a stowage system such as a wheelchair hoist, roof top stowage or, if they have some mobility, ramps for the rear of the vehicle (estate car or MPV). Wheelchair hoists cost from £500 and fitting involves fixing the hoist to the vehicle by drilling for screwed securement. Roof top hoists are more expensive; from £1,350 fitted to over £2,500. Portable ramps are the cheapest option, costing from £120 up and have a long life.

**5.3.50** There is very little evidence of the extent to which cars adapted for use by disabled drivers are supplied in general. Information supplied by the DVLA shows that last year 11,500 restricted driving licences were issued out of a total of 5.5 million; approximately 0.2 per cent. Some of these will be for drivers who need vehicles with substantial adaptations, which could not reasonably be required from the vehicle rental industry. BVRLA estimates that approximately ten million vehicle rentals are provided per annum by their members, of which some four million are consumer (as opposed to corporate rentals). It is the consumer rentals to private individuals that are the main concern of the proposed legislative changes.

**5.3.51** The BVRLA represents about 85 per cent of the total industry which comprises over 500 rental companies and suggests total consumer rentals of around 4.7 million per annum. At a rate of 0.2 per cent, this would equate to around 9,400 rentals to disabled drivers per annum. The available evidence indicates that actual rentals are presently much lower than this: around 1,000 per annum of which about 70 per cent are for automatic cars fitted with portable hand controls. The remainder are rentals from specialist car conversion companies that have vehicles for hire.

**5.3.52** No figures are available for the number of wheelchair accessible vehicles hired from the industry. Hire of this type of vehicle from specialist companies (the vehicle usually has rear entry by ramp) is of the order of 1,200 to 1,300 per annum.

**5.3.53** As well as the duty to make physical adjustments, the other Part 3 duties will also be applied to the vehicle hire industry. In this respect, three other issues should also be considered: insurance, additional hire charges and staff training in disability awareness.

**5.3.54** The BVRLA survey referred to earlier showed that the insurance position for the rental of adapted vehicles is not consistent from one company to another. In some cases there is no difference to the insurance, but in others there may be an excess charge. However, the effect of the regulations is that it will be unlawful to discriminate against a

disabled driver simply because they are disabled; any excess charged will therefore have to be on the basis of risk category assessment. There is no evidence that disabled drivers carry a greater accident risk than their non-disabled peer group and, accordingly, there should be no question of extra premiums due to disability alone.

**5.3.55** The other aspect of insurance is product liability. There is some concern in the adaptation industry over liabilities arising because of adaptations being incorrectly fitted. For this reason, most require the equipment to be fitted by themselves, or an accredited agent or fitter who has received training from a manufacturer or supplier.

**5.3.56** There are approximately 3,300 vehicle rental outlets in Great Britain. Although smaller companies may not reasonably be expected to supply a range of vehicles adapted for disabled drivers and passengers, they should be able to advise customers where to obtain a suitable vehicle. Where a (larger) company has adapted vehicles or can provide them, staff should have some knowledge about the adaptations and be able to advise customers where specialist advice might be obtained when appropriate.

**5.3.57** It appears to be usual in the UK, though not elsewhere, to charge extra for a vehicle fitted with modified controls, to cover the fitting and rental or purchase of the controls. This could be regarded as discriminatory and, by analogy with the policy adopted by major airlines with respect to the additional costs incurred in assisting a disabled passenger through an airport, could be spread across all vehicle hirers, where the impact would be minimal.

**5.3.58** If the industry provided basic portable hand controls which met the needs of a considerable proportion of disabled drivers, at no extra cost to the customer, and assuming the market eventually grows to around 9,000 rentals a year by disabled drivers with 70 per cent able to use portable controls and an average cost of £130 to £140 for a week's hire, the costs to the industry would be in the order of £800,000 to £900,000 per annum.

**5.3.59** If those companies that have estate cars or MPVs on their fleet provided portable ramps to assist wheelchair users to stow their wheelchair, the costs of this are estimated to be £400,000 to £600,000.

**5.3.60** There are no confirmed figures for staffing in the vehicle hire industry but, if staff training is undertaken on a rolling basis of two members of staff per outlet per year, the cost to the industry for training

at the estimated 3,300 vehicle rental outlets is estimated to be between £800,000 and £1 million per annum.

**Costs to service providers: vehicle hire**

Item	Non-recurring costs (£m)	Recurring costs (£m pa)
Portable hand controls	-	0.8 - 0.9
Staff training	-	0.8 – 1.0
Purchase of ramps	0.4 – 0.6	-
<b>Total</b>	<b>0.4 – 0.6</b>	<b>1.6 – 1.9</b>

**Breakdown services**

**5.3.61** From discussions with the principal national breakdown services and with organisations representing independent breakdown and recovery operators, there is already provision made to meet the needs of a disabled driver whose car breaks down. Those services that directly employ their own patrol staff (such as the AA and RAC) give them training in disability awareness and in handling wheelchair users. Green Flag operates through an independent network of recovery operators, rather than with patrols employed direct. Although these operators do not receive disability awareness training direct from Green Flag, they have experience of dealing with the needs of car users who are disabled. The organisation is not aware of any case, over the last 30 years, where the recovery operators have been unable to resolve any problems associated with assisting a disabled person whose vehicle has broken down.

**5.3.62** In general, approximately 80 per cent of all breakdowns can be repaired at the roadside, so it is only a minority who need onward mobility. Most disabled people can be accommodated in standard recovery vehicles, but there are occasions when this is not possible, usually where the person concerned cannot transfer from their wheelchair. When this happens, the breakdown services have special procedures in place. These can include getting the police to cordon off the vehicle so that the wheelchair user can be safely assisted out of their vehicle or, with the customer's consent, recovering the vehicle with them still in it - for example when the vehicle has broken down in a dangerous place.

**5.3.63** Where onward transport is required this will be arranged, often by using fully accessible taxis or other appropriate vehicles. Although

recoveries of this kind are relatively few in number there are extra costs incurred but these are covered by the breakdown services even where the additional service is outside the terms of the policy held by the customer.

**5.3.64** It is not considered that applying Part 3 requirements would result in any appreciable increase in the costs of breakdown services as most providers already make satisfactory arrangements for meeting the needs of disabled motorists whether they are the driver or the passenger.

### **Leisure and tourism sector**

**5.3.65** The transport services provided in this sector are primarily by coach. The costs detailed in the section on buses and coaches include those relating to coaches operated on leisure and tourist operations.

**5.3.66** There will be some other transport vehicles, for example, road trains such as those used in parks and at outdoor attractions. The precise number of people involved in the provision of such services is not known but, given that they are likely to be part of a staff team working in a sector which is already covered by the provisions of Part 3 of the DDA 1995 (fairground rides and similar tourist attractions, for example, are already within scope) it is not unreasonable to suppose that relevant training for those staff could be incorporated into the general disability awareness training which is already likely to be provided.

## **6 Summary of benefits and costs**

**6.1** There are likely to be benefits to business from:

- increase in patronage - there are almost 10 million adults in Britain covered by the DDA and many will wish to travel with friends or family;
- improved customer service levels - other service providers have found that providing disability awareness training has negated the need for more general customer care training; and
- improved customer satisfaction - as procedures are reviewed, it is more likely that problems will be resolved without recourse to the law.

**6.2** Benefits will arise for disabled people through:

- improved personal mobility for disabled people;

- improved access to a wider range of facilities and activities (including employment) enabling disabled people to play a fuller role in the economy and society; and
- improved and wider rights of access to services.

### Summary of costs by sectors covered initially in regulations

Sector	Item	Costs	
		One-off (£m)	Recurring (£m pa)
Rail	Training in disability awareness	-	6.75
	Full staffing of unstaffed and partly staffed stations	substantial	45 -135
Bus & Coach	Training in disability awareness	7.7	3.6
	Loss of earnings during training	21.9	3.3
Taxi & PHV	Charges for training	7.9	1.2
	Provision of vehicles with adapted controls	1-1.2	1.6-1.9
Car Hire			
Breakdown	No appreciable increase in costs expected	N/A	N/A
Leisure & tourism	Costs incorporated in Bus & Coach section	-	-

## 7 Small firms impact test

**7.1** The majority of taxi, private hire vehicle and vehicle hire companies are small businesses. A substantial number of coach and bus operators are also small businesses although, in public transport, the industry is dominated by a small number of very large companies. The other industries covered by the regulations (rail, with the exception of heritage operators, and breakdown services) are mainly composed of large companies with the exception of the travel agency businesses.

**7.2** Aside from the vehicle hire industry, the requirements placed by the regulations are likely to concern the provision of appropriate training

in disability awareness. The additional costs of this are modest. In the taxi and private hire vehicle sector, which has the highest number of small businesses (often just a single person), the costs of attending a training session, including allowance for lost earnings, would be of the order of £135-£175 (approximately), estimated to be around one per cent of gross annual earnings (see paragraphs 5.3.36 to 5.3.42 for cumulative effect on these sectors). The impact on small businesses in other transport sectors is not expected to be any greater than this.

**7.3** There could also be benefits to small businesses on the basis that they should be able to increase their potential pool of customers by providing services which are accessible to a greater number of disabled people, together with their friends and families.

**7.4** The Small Business Service (SBS) has been consulted on this RIA and has voiced some reservations about the effectiveness and cost of further training in the taxi and private hire vehicle sector. This is a sector highly populated with very small businesses. Accepting the staff turnover rates and the unquantified size of the informal economy that exists in the sector, the SBS is concerned that additional costs could render legitimate businesses uncompetitive. It is noted that the DRC's Code of Practice will address these issues in advising on the reasonableness of particular approaches.

## **8 Competition assessment**

**8.1** The regulations apply to transport service providers of all sizes throughout the country. The cost to individual service providers will be limited by the fact that the legislation requires them to do only what is reasonable in all the circumstances of the case. Any costs incurred by the service provider in making reasonable adjustments to policies, practices and procedures (or, in the case of the vehicle hire sector, physical adjustments) will be spread across all customers as part of the service providers' general expenses.

## **9 Enforcement, sanctions and monitoring**

**9.1** Enforcement of these provisions will be handled within the same framework as for other services under section 25 of the DDA 1995. The DRC will have enforcement powers and can support individual disabled people with legal complaints. Enforcement will involve the DRC and the courts as appropriate.

**9.2** The DRC's codes of practice, whilst not imposing statutory obligations, can be used as evidence in legal proceedings under the DDA 1995. The courts must take into account any part of the appropriate code that appears to them relevant to any question arising in those proceedings.

**9.3** The DRC, as part of its overall duty to monitor the DDA 1995, will keep the legislative framework under review. It is also likely that the Disabled Persons Transport Advisory Committee (DPTAC), as the Government's statutory advisers on the transport needs of disabled people, will also wish to keep these provisions under review.

## **10 Implementation and delivery plan**

**10.1** Although they will not come into force until 4 December 2006, it has been necessary to lay these regulations now to enable the DRC to finalise their associated code of practice for the operators of transport services following consultation and allow for the necessary Parliamentary process for its introduction.

**10.2** Publishing the code of practice in advance will allow time for the affected sectors to make any necessary adjustments prior to the new duties being introduced. The code will be available to all stakeholders and the DRC, with support from DfT, will develop a publicity strategy to raise awareness of the new duties.

**10.3** DfT and DPTAC already provide guidance, training material and expertise to assist the industry in meeting the needs of disabled people. This has been widely disseminated within the target sectors but its availability will be highlighted once more as part of the above exercise to ensure that all operators are aware of its existence. DfT will continue to work with all stakeholders to develop best practice.

**10.4** With specific regard to disability awareness training, it is envisaged that the recent establishment of GoSkills (the sector skills council for passenger transport) as a national body with overall responsibility for training, will act as a driver for wider formal accreditation and result in more professional training throughout the industry. DfT has already supported GoSkills to produce a training video for bus and coach drivers outlining the difficulties disabled people can face in accessing bus services and how these can be overcome and will continue to provide assistance in the development of other resources where required.



## **11 Post-implementation review**

**11.1** As indicated in Section 8 above, both the DRC and DPTAC will keep this legislation under review. Once the new duties come into force on 4 December 2006, the DRC will be able to investigate problems via its helpline. It is envisaged that the number (and nature) of any cases subsequently brought before the courts will prove a good indicator as to how well the industry has adapted and identify any areas of continuing concern. Subject to the availability of resources, it is likely that "mystery shoppers" may also be employed to monitor industry performance.

**11.2** The Department for Transport will follow the industry's response to the forthcoming duties and take a close interest in the effect that the publication of the DRC's code of practice has on the provision of reasonable adjustments. The Department will also monitor responses to traveller satisfaction rates through its National Travel Survey.

## **12 Summary and recommendation**

**12.1** The introduction of the new duties will remove an anomaly which has existed since the exemption for transport services was first written into the Disability Discrimination Act 1995 and is consistent with the Government's acceptance of the Disability Rights Task Force's recommendation and its own Manifesto commitments (see paragraphs 4.2 and 4.3).

**12.2** Consultation has shown that the move will be widely welcomed and is supported by both disability organisations and the industry.

**12.3** This Regulatory Impact Assessment indicates that the regulations will not result in any significant new burdens or costs on the affected sectors. Indeed, the majority of transport service providers have indicated that they are already complying with the spirit of the legislation.

**12.4** The regulations will provide parity with the duties other service providers are already under by extending disabled peoples' civil rights to transport services.

**12.5** It is recommended that the regulations are laid now to enable the Disability Rights Commission's code of practice to be published giving transport service providers sufficient time to make any necessary adjustments prior to the duties coming into force on 4 December 2006.

### **13 Declaration**

I have read the Regulatory Impact Assessment and I am satisfied that the benefits justify the costs.

**Signed** .....**Karen Buck**.....

Karen Buck  
Parliamentary Under-Secretary for Transport  
Department for Transport

**Date** .....**15/11/05**.....

#### **Contact point**

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