

November 2015



**CONSULTATION ON NEW
REGULATIONS CONCERNING
THE CONDUCT OF PASSENGERS
AND DRIVERS ON PUBLIC
SERVICE VEHICLES**

Proposals for Public Consultation

Date: November 2015

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Alternative Formats

This publication is available, on request, in large print, Braille and audio alternative formats. Please advise us as soon as possible if you require this.

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Abbreviations

The table below outlines some abbreviations used within this document.

Abbreviation Meaning / Definition

DOE	Department of Environment
RSVRD	Road Safety & Vehicle Regulation Division
FOIA	Freedom of Information Act 2000
DPA	Data Protection Act 1998
DVA	Driver & Vehicle Agency
OL	Operator Licence

Arrangements

Purpose of Consultation

This consultation document seeks your views on proposals to amend the Public Service Vehicles Regulations (Northern Ireland) 1985 to introduce new duties for bus drivers with regards to passengers with disabilities. This will bring NI into line with Britain.

Your views are invited on the proposals and, in particular, their likely impact on you and /or on your organisation.

This consultation will be of particular interest to you if you provide or use any of the following services in public service vehicles¹ which seat 9 or more passengers:

Your invitation to comment

This consultation is aimed at those involved in providing transport services by public service vehicles in Northern Ireland, and those who represent disability awareness charities.

1. A Public Service Vehicle is defined in Article 2 of the Road Traffic (NI) Order 1981 as a "motor vehicle or a trolley vehicle used in standing or plying for hire, or used to carry passengers for hire, but does not include any vehicle in respect of which a certificate of exemption in the prescribed form has been issued by the Department, any motor vehicle exempted from licensing requirements by virtue of section 10A of the Transport Act (Northern Ireland) 1967 or any vehicle to which Article 66A (car-sharing arrangements) applies.

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Background

The Public Service Vehicles Accessibility Regulations (Northern Ireland) 2003 introduced technical requirements to be met by buses and coaches used to provide a scheduled service (“regulated public service vehicles”). They provided for a phased implementation of the requirements due to the impact on the bus industry.

The 2003 Regulations, which were enacted under the Disability Discrimination Act 1995, are intended to ensure that disabled people can use regulated public service vehicles in safety and without unreasonable difficulty and in the case of wheelchair user, can do so whilst remaining in their wheelchairs.

The proposed new Regulations will amend the Public Service Vehicles Regulations (Northern Ireland) 1985 in order to insert a new Part VI which provides for the introduction of additional duties for the drivers of regulated public service vehicles with respect to passengers who are disabled, including wheelchair users. These duties include –

- Allowing a wheelchair user to board the vehicle if a wheelchair space is available and ensuring that the wheelchair user is correctly and safely positioned in the wheelchair space, including providing such assistance as may be required to enable the wheelchair user to be properly secured;
- Operating a kneeling system or folding or retractable step when required to do so to allow a disabled person to board or alight from the vehicle;
- Operating the boarding lifts or ramps where a wheelchair user or a disabled person who is not a wheelchair user wishes to board or alight from the vehicle and providing assistance to them if so requested; and
- Ensuring that the correct route numbers and destinations are displayed at all times and illuminated when required.

The Regulations also allow for the driver to be excused from certain duties where faulty or malfunctioning equipment would

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make it unsafe for him to fulfil that duty. The extent of the driver's duty is defined so that he shall not be obliged to take any steps that pose a risk to any person.

The Regulations also make amendment to the existing Part V of the Public Service Vehicles Regulations (Northern Ireland) 1985 so that a driver shall not prevent a passenger who is a disabled person from travelling on a bus with their assistance dog and that the passenger in question shall comply with any request from the driver to remove the animal from the gangway.

These Regulations are based on similar provisions in place in Britain contained in; the Public Service Vehicles (Conduct of Drivers, Inspectors, Conductors and Passengers) Regulations 2002.

Purpose and Effect

Lifts and ramps

Regulation 66 (general duties towards wheelchair users and other disabled persons) contains provisions that regulated public service vehicles may be fitted with a lift, or a ramp. This ramp may be powered, manual or portable and can be stowed in a convenient place on the vehicle. If a portable ramp is used, this regulation requires the driver to ensure at the start of the service that it is being carried on the vehicle. Regardless of the type of lift or ramp provided the driver must be familiar with the method of operation and must always ensure that the lift or ramp is securely stowed before the vehicle is driven.

Where a wheelchair user needs to travel seated in their wheelchair, the driver must ensure that the wheelchair is safely positioned in the wheelchair space with any restraints or safety rails correctly deployed.

Kneeling systems and steps

Many buses and coaches are fitted with a kneeling system that lowers the body of the vehicle closer to the ground. Regulation 65

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requires the driver to operate the kneeling system when he sees that a disabled person will need the system to be operated, or on request.

Assistance

Where disabled persons and wheelchair users wish to board or alight from a bus, the driver will be required by Regulation 66 to provide assistance by operating the kneeling system.

Faulty or malfunctioning equipment

A number of duties with respect to disabled people require the use of equipment fitted or supplied on the vehicle. A driver must not allow a disabled person to board, alight or travel on a vehicle if a fault or failure of any equipment means that it is not safe to do so.

Regulation 67 (effects of faulty or malfunction equipment) provide in paragraph (1) that where a driver carrying out duties under regulations 64 to 66 uses equipments, a kneeling system or a folding or retractable step that is faulty or fails, he must not allow wheelchair users, other disabled persons or any persons to board or alight from the vehicle unless he is satisfied that they can do so in safety. Paragraph (2) excuses a driver for failure to perform his duty with regard to the operation of kneeling systems or folding or retractable steps and to display a route number and destination if that failure is due to a fault in the equipment or system.

Route numbers etc.

Regulation 68 makes it the driver's responsibility to ensure that route numbers and destinations are correctly displayed and illuminated.

Extent of driver's duty

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Many of the new provisions in the draft Regulations require the operating or deploying of a kneeling system, a folding or retractable step, a lift or ramp, or the provision of assistance to a disabled person. In fulfilling any of these duties it is essential that the driver takes all reasonable care to ensure that the disabled person is safe when boarding or alighting. There may be circumstances where there the health and safety of the driver, the disabled person, other passengers, or the security of the vehicle is at risk. In these circumstances Regulation 69 allows the driver to decide whether it is reasonable not to fulfil a particular duty.

Operator Penalties

The Department intends to put in place a system whereby the Operator could be penalised if their drivers fail to take all reasonable steps in accordance with the proposed regulations. If the Department is satisfied that the operator has taken all reasonable steps on their vehicle, then no penalty will issue on that particular occasion. If these incidents are repetitive in nature, however, the Department may penalise that operator or to record these incidents and may consider them as part of the criteria for the annual renewal of their licence.

Driver Penalties

If the Department is satisfied that any regulation has been breached, and a defence of 'all reasonable steps' does not apply, the driver may be fined £1000.

How to Comment

Comments have been invited on the proposals set out in this consultation document. Comments are also invited on the outline Regulatory Impact Assessment (Annex 3)

Contact point

Write to: June Gibson
Vehicle Policy Branch

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Road Safety & Vehicle Regulation Division
Department of the Environment
Clarence Court
10-18 Adelaide Street
Belfast
BT2 8GB

Email: june.gibson@doeni.gov.uk
Telephone: 02890540354

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Annex 1: List of Consultees

The following is not an exhaustive list, but is indicative of the types of organisations this document was sent to.

Translink
Federation of Passenger Transport Northern Ireland
Community Transport Association
IMTAC
Bus operators licence holders
Disability Action

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Annex 2: Reply Form

Please Note: The Department is unable to consider any views submitted anonymously. We would therefore be grateful if the following details could be completed and included with your comments.

Title	
Name	
Address	
Postcode	
Telephone number	
Email address	
<i>If applicable:</i>	
Organisation Name	
Address	
Postcode	
Telephone number	
Email address	
Type of Organisation	
No. of views represented	

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Comments	

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Equality Impact Assessment (EQIA)

Having conducted an EQIA screening exercise on the proposed amendments to the Public Service Vehicles Regulations (Northern Ireland) 1985, with regards to introducing new duties for bus drivers with regards to passengers with disabilities, it has been decided that a full equality impact assessment is not required. This proposed amendment appears to have a positive impact on those passengers who are disabled or who are elderly and will therefore be more beneficial to passengers. There is no evidence that the proposals will have a detrimental impact on any s75 group.

If you disagree with this assessment, please contact June Gibson via email at june.gibson@doeni.gov.uk giving details of how you think this will impact negatively on any of the protected groups mentioned within Section 75 of the Northern Ireland Act.

Draft Partial Regulatory Impact Assessment

Introduction

The Better Policy and Regulatory Impact Assessment guide for Northern Ireland makes clear that “new regulations should only be introduced when other alternatives have first been considered and rejected and where the benefits justify the costs.” The aim is to ensure that government regulations achieve their intended effects without undesired side effects. A Regulatory Impact Assessment (RIA) must be carried out if the proposed regulation would have an impact on business, charities, social economic enterprises or voluntary bodies.

In simple terms a RIA is a report that informs policy decisions by presenting information in relation to the costs, benefits and risks of a proposal for regulations which have identified.

More specifically, RIAs are designed to assist those who are considering regulatory proposals to think through the full impact regulatory process; identify alternative options for achieving the desired change; assess options; ensure that the consultation process is meaningful and reaches the widest possible range of stakeholder; and determine whether the benefits justify the costs.

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All public authorities in Northern Ireland have statutory duties and responsibilities in relation to sustainable development and it is important that RIAs specifically consider the costs, benefits and risks of any proposals in terms of their impact on society, environment and economy.

The first stage in the RIA process is the preparation of an Initial Impact Assessment. Later, following consultation, a Partial RIA will be prepared building upon and developed from the initial RIA. The last stage in the process is the development and publication of a final RIA to accompany any new legislation being made.

The proposed new Regulations

The proposed new regulations place certain duties on bus drivers. However, the Regulations do not require the fitting of new equipment and therefore introduce no new costs to the service provider. In addition much of what we are proposing to introduce in law would be considered good customer service and we do not anticipate that the provider will require to make any additional financial investment.

Consultation

Comments have been invited on the proposals set out in the accompanying consultation document. Comments are also invited on this draft Partial Regulatory Impact Assessment which will be further developed to take account of any comments made during the consultation.

Rural Proofing

Rural proofing is the process by which rural evidence is routinely and rigorously considered in the policy making process to ensure fair and equitable treatment of rural communities. The objective of rural proofing is to demonstrate that sufficient evidence has been considered to make effective policies which provide for equitable treatment of both rural and urban areas. It needs to consider how the proposed policy will impact on the ability of everybody in the community to be involved in decisions that impact on the quality of their lives especially those most vulnerable, excluded or marginalised.

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This proposed amendment appears to have a positive impact on those passengers who are disabled or who are elderly and will therefore be more beneficial to passengers. There is no evidence that the proposals will have a detrimental impact on rural communities.

If you disagree with this assessment, please contact June Gibson via email at june.gibson@doeni.gov.uk giving details of how you think this will impact negatively on rural communities.

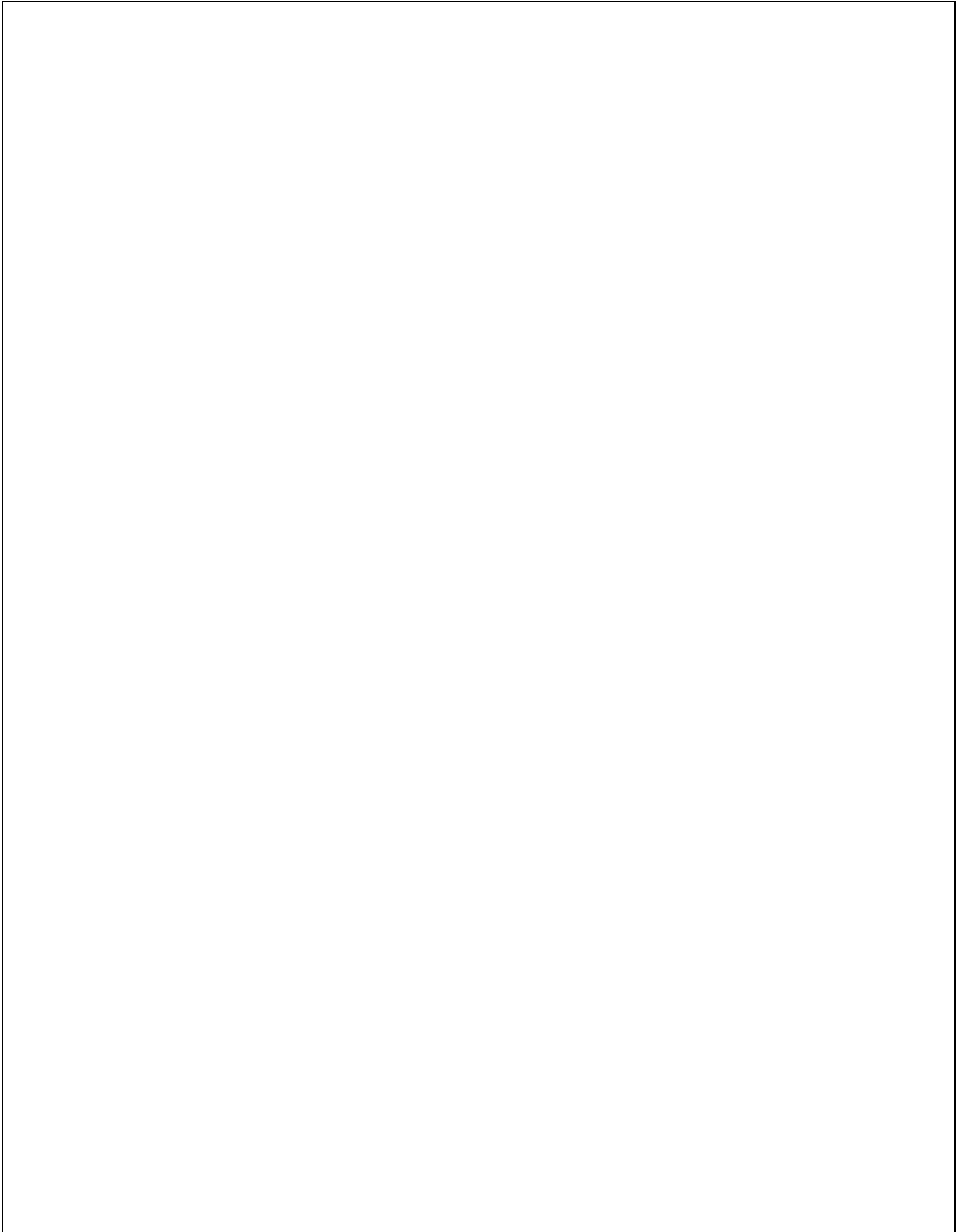
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Annex 3 *Initial Regulatory Impact Assessment*

The Department invites views on the Regulatory Impact Assessment and the potential impact on you or your organisation.

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FREQUENTLY ASKED QUESTIONS

Below is a list of frequently asked questions about these proposals. If after reading this section you have further queries, please contact me for further background information.

Why are these Regulations being made?	The extent of the new provisions which now apply to drivers of buses would not sit properly in the existing legislation, which currently covers buses and taxis.
How do these Regulations differ from those in place in Great Britain?	These Regulations are identical in content to their GB equivalents.
Why do the new duties apply only to drivers of 'regulated buses'?	Certain types of buses and coaches are required to be constructed to maximise "accessibility" for wheelchair users and disabled people. These are mainly urban buses. The new duties apply to the equipment likely to be fitted to these types of buses.
Will the new provisions mean extra costs for bus operators?	No. The main bus operators in Northern Ireland currently include these duties in their normal training for bus drivers and inspectors.

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This publication is available, upon request, in large print, Braille and audio alternative formats. Please inform us, by way of the contact details below, as soon as possible if you require a copy of the consultation in any of these formats.

An electronic copy of the consultation document and an electronic copy of the reply form can be obtained if required by using the contact details below, or by visiting the following link:

www.doeni.gov.uk/roadsafety/index/consultations.htm.

All comments and views on the options outlined are welcomed. If you wish to respond to this consultation, please complete the form attached in Annex 2 and forward your completed form in any of the following ways:

E-mail **june.gibson@doeni.gov.uk**

Write to:

Road Safety & Vehicle Regulation Division
Clarence Court
10 – 18 Adelaide Street
Town Parks
BELFAST
BT2 8GB

Telephone: 02890540354

The closing date for responses is 26 February 2016.

Any responses which do not arrive on or before this date will not be included in the summary of responses, and thus will not be included when considering recommendations.

A copy of this consultation has been issued to organisations including those listed in Annex 1. The list is not exhaustive, but is representative of the type of organisation to which the document has been sent. Please contact the Department, using the details above, if you are aware of other organisations or individuals that you feel should be sent a copy.

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If you are replying on behalf of an organisation or a group, it would be helpful if you could indicate who you are representing, what the organisation/group does, what its aims are, how many individuals' views are included in the response, as well as an indication of the steps that have been taken to gather those views. In the case of an operator the number and type of vehicles operated by that operator would also be beneficial in helping to shape the outcome of the proposals.

Freedom of Information

Information provided in response to this consultation, including personal information, may be subject to publication or disclosure in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004 (EIR).

If you want the 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 DPA and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

This focused consultation is based on the principles of the Government's "Code of Practice on Consultation", subject to the caveat mentioned above.

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Code of Practice on Access to Government

The Government has adopted a Code of Practice on consultations. Therefore, information supplied to the Department may be disclosed in a response to a request under the Code of Practice on access to Government Information. If you consider that any such information is either confidential or commercially sensitive, you should identify the information to the Department and specify any reasons for its sensitivity. The Department will consult you about the information before making a decision on any Code of Practice on access to Government Information request received.

The Code of Practice contains seven criteria which should be reproduced in all consultation documents. Deviation from the code will at times be unavoidable, but the Government aims to explain the reasons for deviations and what measures will be used to make the exercise as effective as possible in the circumstances.

The Seven Consultation Criteria

When to consult: Formal consultation should take place at a stage when there is scope to influence the policy outcome.

Duration of consultation exercises: Consultations should normally last for at least eight weeks with consideration given to longer timescales where feasible and sensible.

Clarity of scope and impact: Consultation documents should be clear about the consultation process, what is being proposed, the scope to influence and the expected costs and benefits of the proposals.

Accessibility of consultation exercises: Consultation exercises should be designed to be accessible to, and clearly targeted at, those people the exercise is intended to reach.

The burden of consultation: Keeping the burden of consultation to a minimum is essential if consultations are to be effective and if consultees are to buy into the process.

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Responsiveness of consultation exercises: Consultation responses should be analysed carefully and clear feedback should be provided to participants following the consultation.

Capacity to consult: Officials running consultations should seek guidance in how to run an effective consultation exercise and share what they have learned from the experience.

What we will do after the consultation

The consultation exercise seeks to canvass views on the introduction of measures to effectively address the named issue. The responses to this consultation will be collated and used to further evaluate the impact any such measures may have on the community. Where an unforeseen impact is identified, the Department will reconsider the proposals with a view to minimising any detrimental outcomes.

Help with Queries

If you have any queries or require further information about this consultation, please do not hesitate to contact at the address at the start of this consultation. The consultation document and additional reply form can also be found at

www.doeni.gov.uk/roadsafety/index/consultations.htm

Closing Date for Responses

The closing date for responses is 26 February 2016.