

HUMAN RIGHTS AND EQUAL OPPORTUNITY COMMISSION

DISABILITY DISCRIMINATION ACT 1992 (Cth), Sections 55(1) and 55(1A)

NOTICE OF DECISION ON APPLICATION FOR TEMPORARY EXEMPTION: AUSTRALASIAN RAILWAYS ASSOCIATION

By this instrument, the Human Rights and Equal Opportunity Commission ('the Commission') gives notice of its decision on an application by the Australasian Railways Association ('the ARA') for temporary exemptions pursuant to sections 55(1) and 55(1A) of the *Disability Discrimination Act 1992* (Cth) ('DDA').

1 THE APPLICATION

- 1.1 The ARA has made an application, on behalf of its members ('members of the ARA'), for a number of temporary exemptions from the DDA and from the Disability Standards for Accessible Public Transport 2002 ('DSAPT').

2 DECISION OF THE COMMISSION

- 2.1 The decision of the Commission on each part of the ARA's application is set out in Schedules One and Two.
- 2.2 The Commission has decided to grant to members of the ARA a number of temporary exemptions pursuant to sections 55(1) and 55(1A) of the DDA in the terms set out in Schedule One.
- 2.3 The Commission has decided to decline or to defer its consideration of a number of the temporary exemptions sought by the ARA in the terms set out in Schedule Two.

3 CONSIDERATION AND REASONS

- 3.1 In making its decision, the Commission relied upon the following:
 - 3.1.1 The ARA's application dated 29 July 2005, the ARA's revised application dated 24 February 2006 and further information provided by the ARA in response to submissions dated 31 July 2006.
 - 3.1.2 Advice from the Accessible Public Transport Jurisdictional Committee dated October 2006.
 - 3.1.3 Submissions from other interested parties listed at http://www.humanrights.gov.au/disability_rights/exemptions/ara/subs.htm
- 3.2 These documents are available on the Commission's web site at http://www.humanrights.gov.au/disability_rights/exemptions/ara/noi.htm
- 3.3 In making its decision, the Commission had regard to the following:

- 3.3.1 the terms and objects of the DDA;
 - 3.3.2 the DSAPT; and
 - 3.3.3 the Disability Standards for Accessible Public Transport Guidelines 2004 (No 3).
- 3.4 The process by which the Commission considered the ARA's application and the reasons for the Commission's decision are set out in Schedule Three.

4 MEANING OF IMPORTANT TERMS

- 4.1 For the purposes of this decision, **rail** means trains and light rail.
- 4.2 Unless the contrary intention appears, any term used in this decision and in the DSAPT has the same meaning in this decision as it has in the DSAPT.
- 4.3 Unless the contrary intention appears, any term used in this decision and in the DDA has the same meaning in this decision as it has in the DDA.

5 REVIEW OF DECISION

- 5.1 Subject to the *Administrative Appeals Tribunal Act 1975*, application may be made to the Administrative Appeals Tribunal for a review of the decision to which this notice relates by or on behalf of any person or persons whose interests are affected by the decision.

Dated this 22nd day of January 2007

A handwritten signature in black ink, appearing to read 'John von Doussa', written in a cursive style.

Signed by the President, John von Doussa QC, on behalf of the Commission.

SCHEDULE ONE

NOTICE OF GRANT OF TEMPORARY EXEMPTIONS

The Commission grants to members of the ARA, on the terms and conditions set out in this Schedule, the following temporary exemptions from the operation of:

- sections 23 and 24 of the DDA; and
- section 32 of the DDA in relation to the DSAPT specified below.

The conveyances, infrastructure and premises to which each decision applies are identified in the heading to each temporary exemption.

The Commission has decided to grant to members of the ARA the exemptions set out in this Schedule for a period of three years (except in one instance for two years).

In accordance with clause 34 of the DSAPT, the Minister for Transport and Regional Services, in consultation with the Attorney-General, is to review the DSAPT within five years after they take effect ('the Ministerial review').

If, following the Ministerial review, and during the exemption period, the DSAPT are re-made (by the Attorney-General with the approval of the Parliament), in an amended form on any point, the temporary exemptions now granted by the Commission will be displaced and become inoperative.

2.1 Access paths - Unhindered passage

- (1) An access path that allows unhindered passage must be provided along a walkway, ramp or landing.
- (2) An access path must comply with **AS1428.2 (1992) Clause 8.1**.

Premises

Infrastructure

except airports
that do not accept
regular public
transport services

Temporary exemption: rail premises and rail infrastructure

For a period of three years, flange gaps of up to 75mm are permitted where a level crossing forms part of an access path on rail premises or rail infrastructure. This exemption is subject to the condition that the member of the ARA concerned reports to the Commission every 12 months during the period of this exemption on measures taken to reduce the use of level crossings as part of access paths and on research undertaken into possible technical solutions for bridging flange gaps.

Temporary exemption: existing rail premises and existing rail infrastructure

For a period of three years, an access path is required to provide entrance and exit only at a single boundary point for existing rail stations, subject to the following conditions:

- this exemption does not exclude any requirement for fuller upgrading of access paths or entrances and exits which may arise under legislation giving effect to the Building Code of Australia as in force during the period of this exemption; and
- the member of the ARA concerned reports to the Commission within 12 months of this decision on which rail stations have inaccessible as well as accessible entrances and exits, the impact of inaccessible entrances and exits on passenger amenity, and constraints on upgrading entrances and exits to provide access paths.

2.4 Access paths - Minimum unobstructed width

- (1) The minimum unobstructed width of an access path must be 1200 mm (**AS1428.2 (1992) Clause 6.4**, *Width of path of travel*).
- (2) However, the minimum unobstructed width of a moving footway may be 850 mm.

Premises

Infrastructure

except airports
that do not accept
regular public
transport services

Temporary exemption: existing rail premises and existing rail infrastructure

For a period of three years, for existing rail premises and existing rail infrastructure:

- where the 1200mm minimum unobstructed width for access paths cannot be met due to structural and technical constraints, an access path with a minimum unobstructed width of 1000mm may be provided;
- the 850mm minimum unobstructed width (applicable to doorways and gateways) is also permitted on access paths for the purposes of passing an obstruction limited to less than 800mm in length; and
- platform edge warning tactile ground surface indicators ('TGSIs') are permitted to intrude into access paths, subject to the condition that where site constraints permit an access path with a minimum unobstructed width of 1000mm is provided, and where site constraints require further intrusion of TGSIs into the access path such intrusion is the minimum required.

2.6 Access paths — conveyances

- (1) Subject to subsection (3) and section 2.7, an access path that allows continuous and unhindered passage must be provided with a minimum width of at least 850 mm.
- (2) Subsection (1) applies to doorways and stairs, and between entrances, exits, allocated spaces and other essential facilities for passengers using wheelchairs and other mobility aids.
- (3) If the conveyance exists or is ordered before the commencement of this section, the minimum width may be reduced to 800 mm at any doorway restriction.

Conveyances

- Buses
 - Ferries
 - Trains
 - Trams
 - Light rail
-

Temporary exemption: existing rail conveyances

For a period of three years for existing rail conveyance external doors, and for a period of two years for existing rail conveyance internal doors, the width of the access path may be reduced to a minimum of 760mm, subject to the following conditions:

- direct assistance is available;
- the ARA member concerned ensures that information is available to passengers in advance of travel of instances where the width of the access path has been reduced; and
- the ARA member concerned reports to the Commission within 12 months of this decision on technical options for the widening of access paths on existing rail conveyance external and internal doors and proposals for the implementation of these options.

For a period of three years, access may be provided only by means of stairs to upper and lower decks of double deck existing rail cars, subject to the condition that access to unique facilities is assured.

For a period of three years, an access path is only required at a single door rather than all doors of existing rail conveyances, subject to the following conditions:

- equivalent access is provided at an alternative door of the rail conveyance in the following circumstances:
 - if an allocated space is not available; or

- to ensure access to unique facilities; or
- to ensure a passenger can both board and alight the rail conveyance; and
- the ARA member concerned reports to the Commission every 12 months during the period of this exemption on measures taken to ensure that staff and passengers are adequately informed of both the access paths available at the doors of existing rail conveyances and the equivalent access measures available.

3.1 Manoeuvring areas - Circulation space for wheelchairs to turn in

A manoeuvring area must comply with **AS1428.2 (1992) Clause 6.2**, *Circulation space for a 180 degree wheelchair turn*.

Premises

Infrastructure

except airports
that do not accept
regular public
transport services

Temporary exemption: existing rail premises and existing rail infrastructure

For a period of three years, a manoeuvring area in existing rail premises and existing rail infrastructure complying only with the lower end of the range of dimensions stated in AS1428.2 (1992) Clause 6.2 is permitted, to the extent that space constraints do not permit a larger manoeuvring area.

4.2 Passing areas - Two-way access paths and aerobridges

- (1) A passing area must be provided at least every 6 metres along any two-way access path that is less than 1800 mm wide (**AS1428.2 (1992) Clause 6.5 (b)**, *Passing space for wheelchairs* and **Figure 3**).
- (2) A passing area is not required on an aerobridge.

Premises

Infrastructure

except airports
that do not accept
regular public
transport services

Temporary exemption: existing rail platforms

For a period of three years, for existing rail platforms a passing area every 9 metres along any two-way access path that is less than 1800mm wide is permitted. This exemption is subject to the condition that the ARA member concerned reports to the Commission every 12 months during the period of this exemption on instances where this exemption has been relied upon, the impact of this exemption on passenger amenity, and measures taken by the ARA member to minimise these impacts.

5.1 Resting points - When resting points must be provided

- (1) There must be resting points for passengers along an access path if the walking distance between facilities or services exceeds 60 metres (**AS1428.2 (1992) Note to Clause 7**, *Continuous accessible path of travel*).
- (2) A resting point must provide seats (**AS1428.2 (1992) Clause 27.1(a)**, *Street Furniture*).

Premises

Infrastructure

except airports
that do not accept
regular public
transport services

Temporary exemption: existing rail premises and existing rail infrastructure

For a period of three years, compliance with clause 5.1 is not required for existing rail premises and existing rail infrastructure to the extent that site constraints prevent compliance (rather than only add expense or difficulty). This exemption is subject to the condition that the ARA member concerned:

- consults with the Australian Federation of Disability Organisations every 12 months on the impact of this exemption on passenger amenity; and
- reports to the Commission every 12 months during the period of this exemption on any equivalent access measures implemented, the impact of this exemption on passenger amenity, and the outcome of the consultation with the Australian Federation of Disability Organisations.

8.2 Boarding - When boarding devices must be provided

- (1) A manual or power assisted boarding device must be available at any accessible entrance to a conveyance that has:
 - (a) a vertical rise or gap exceeding 12 mm (**AS/NZS3856.1 (1998) Clause 2.1.7 (f)**); or
 - (b) a horizontal gap exceeding 40 mm (**AS/NZS3856.1 (1998) Clause 2.1.8 (g)**).

Conveyances

except dedicated
school buses and
small aircraft

Temporary exemption: rail conveyances

For a period of three years, a manual or power assisted boarding device is only required at a single door rather than all doors of a rail conveyance, subject to the following conditions:

- equivalent access is provided at an alternative door of the rail conveyance in the following circumstances:
 - if an allocated space is not available; or
 - to ensure access to unique facilities; or
 - to ensure a passenger can both board and alight the rail conveyance; and
- the ARA member concerned reports to the Commission every 12 months during the period of this exemption on measures taken to ensure that staff and passengers are adequately informed of both the doors of rail conveyances at which boarding devices are available and the equivalent access measures available.

8.5 Boarding - Width and surface of boarding devices

A boarding device must:

- (a) be a minimum of 800 mm wide; and
- (b) have a slip-resistant surface.

Conveyances

except dedicated
school buses and
small aircraft

Temporary exemption: rail conveyances

For a period of three years, kerbs or railings on boarding devices used on rail conveyances may be counted as part of the 800mm minimum width requirement.

Temporary exemption: existing rail conveyances

For a period of three years, boarding devices abutting existing rail conveyance doors that are narrower than 800mm (where these doors are permitted), may reduce to the width of the door at that point; subject to the condition that the ARA member concerned ensures that information is available to passengers in advance of travel of instances where the width of boarding devices has been reduced.

8.7 Boarding - Signals requesting use of boarding device

- (1) Any signal for requesting the deployment of a boarding device must be located in an allocated space.
- (2) If possible, a signal is to be placed according to the dimensions given in **AS1428.2 (1992) Clause 11.4, Call buttons**.

Conveyances

- Buses
except dedicated
-

Conveyances

- school buses
 - Coaches
 - Ferries
 - Trains
 - Trams
 - Light rail
-

Temporary exemption: rail conveyances

For a period of three years, signals for requesting boarding devices may be located in or within reach from, rather than only in, allocated spaces on rail conveyances.

9.1 Allocated space - Minimum size for allocated space

The minimum allocated space for a single wheelchair or similar mobility aid is 800 mm by 1300 mm (**AS1428.2 (1992) Clause 6.1**, *Clear floor or ground space for a stationary wheelchair*).

Conveyances	Premises	Infrastructure
except dedicated school buses and small aircraft		except airports that do not accept regular public transport services

Temporary exemption: rail conveyances

For a period of three years, the requirement that the minimum allocated space for a wheelchair or similar mobility aid on rail conveyances be 800mm by 1300mm, is subject to the assumption that wheelchair and mobility aid users may not be able to enter or exit an allocated space in a single manoeuvre, given the internal configuration of rail conveyances.

9.10 Allocated space - International symbol of accessibility to be displayed

- (1) The floor area of an allocated space must:
 - (a) display the international symbol of accessibility; and
 - (b) be outlined in a flush contrasting strip 25 mm wide.
- (2) The colours prescribed in **AS1428.1 (2001) Clause 14.2 (c)** are not mandatory.

Conveyances

- Buses
 - Trains
 - Trams
 - Light rail
-

Temporary exemption: rail conveyances

For a period of three years, display of the international symbol of accessibility is not required to be on the floor of an allocated space on a rail conveyance, subject to the condition that the international symbol of accessibility, and the designation of allocated spaces on rail conveyances, is clearly visible.

11.2 Handrails and grabrails - Handrails to be provided on access paths

- (1) Handrails must be placed along an access path wherever passengers are likely to require additional support or passive guidance.
- (2) A handrail must not infringe an area on a roadside boarding point that may be needed to deploy a boarding device.

Premises

Infrastructure

except airports
that do not accept
regular public
transport services

Temporary exemption: rail platforms

For a period of three years, rail platforms are exempt from clause 11.2.

12.2 Doorways and doors - Compliance with Australian Standard — premises and infrastructure

Doorways and doors must comply with **AS1428.2 (1992) Clause 11** (except **Clause 11.5.2**).

Premises

Infrastructure

except airports
that do not accept
regular public
transport services

Temporary exemption: existing rail platforms

For a period of three years, existing doorways and doors on existing rail platforms are exempt from clause 12.2, subject to the condition that the doorways and doors comply with the Building Code of Australia as in force during the period of this exemption.

12.4 Doorways and doors - Clear opening of doorways

Doorways must comply with **AS1428.2 (1992) Clause 11.5.1**, *Clear opening of doorways*.

Conveyances

- Buses
except dedicated
school buses
 - Coaches
 - Ferries
 - Trains
 - Trams
 - Light rail
-

Temporary exemption: rail conveyances

For a period of three years, where design constraints prevent installation of toilet doors on rail conveyances with an opening width of 850mm, a reduction in toilet door opening width from 850mm to 760mm on rail conveyances is permitted.

14.1 Stairs - Stairs not to be sole means of access

Stairs must not be the sole means of access.

Conveyances	Premises	Infrastructure
except dedicated school buses and small aircraft		except airports that do not accept regular public transport services

Temporary exemption: rail conveyances

For a period of three years, stairs may be the sole means of access to upper and lower decks of double deck rail cars, subject to the condition that access to unique facilities is assured.

14.3 Stairs - Compliance with Australian Standards — conveyances

- (1) If stairs are provided on a conveyance mentioned below, they must comply with:
 - (a) **AS1428.1 (2001) Clause 9.1** (including the notes), *Stair construction*; and
 - (b) **AS1428.2 (1992) Clause 13.2**, *Configuration of steps*, **Clause 13.3**, *Warning strip at nosing of steps* and **Figures 8 and 9**.
- (2) However, the minimum access path width on stairs in the conveyance must be 850 mm.

Conveyances

- Ferries
 - Trains
 - Trams
 - Light rail
-

Temporary exemption: rail conveyances

For a period of three years, stairs on rail conveyances are exempt from clause 14.3, subject to the condition that the ARA member concerned:

- provides equivalent access by direct assistance or other means;
- reports to the Commission every 12 months during the period of this exemption on measures taken to ensure equivalent access including staff training and the provision of passenger information; and
- ensures that stairs on rail conveyances:
 - do not encroach into circulation spaces;
 - have opaque enclosed risers;
 - have colour contrasted warning nosing strips, of 50mm to 75mm width on top and 25mm to 50mm width on the vertical edge, on the edge of stair treads; and
 - if the stairs are at the entrance to a conveyance, comply with AS 1657 (1992) Figure 4.3 measured at the centre line of the stairs.

15.1 Toilets - Unisex accessible toilet — premises and infrastructure

If toilets are provided, there must be at least one unisex accessible toilet without airlock that complies with **AS1428.1 (2001) Clause 10, Sanitary facilities**.

Premises

Infrastructure

except airports
that do not accept
regular public
transport services

Temporary exemption: existing rail platforms

For a period of three years, where structural constraints prevent the installation of one unisex accessible toilet on existing rail platforms, existing gender specific accessible toilets are not required to be replaced or supplemented. This exemption is subject to the condition that the ARA member concerned:

- consults with the Australian Federation of Disability Organisations every 12 months in relation to the impact of this exemption on passenger amenity; and

- reports to the Commission every 12 months during the period of this exemption on the impact of this exemption on passenger amenity and the outcome of the consultation with the Australian Federation of Disability Organisations.

Temporary exemption: rail premises and rail infrastructure

For a period of three years, a door closing force of up to 20N is permitted for toilets on rail premises and rail infrastructure.

15.2 Toilets - Location of accessible toilets

Accessible toilets must be in the same location as other toilets.

Premises	Infrastructure
	except airports that do not accept regular public transport services

Temporary exemption: existing rail premises and existing rail infrastructure

For a period of three years, for existing rail premises and existing rail infrastructure accessible toilets are not required to be in the same location as other toilets, subject to the condition that the ARA member concerned reports to the Commission every 12 months during the period of this exemption on:

- rail premises and rail infrastructure where co-location has not been possible;
- the impact of this exemption on passenger amenity; and
- measures taken to ensure equivalent access, including passenger information and signage.

15.3 Toilets - Unisex accessible toilet — ferries and accessible rail cars

If toilets are provided, there must be at least one unisex accessible toilet without airlock available to passengers using wheelchairs or mobility aids.

Conveyances

- Ferries
- Accessible railcars

Temporary exemption: accessible rail cars

For a period of three years, if toilets are provided, one unisex accessible toilet without airlock is not required to be provided in each accessible rail car, subject to the following conditions:

- one unisex accessible toilet without airlock is provided on an access path from each allocated space; and
- the first toilet provided on an access path from each allocated space is a unisex accessible toilet without airlock.

15.4 Toilets - Requirements for accessible toilets — ferries and accessible rail cars

- (1) An accessible toilet must:
 - (a) comply with the requirements set out in this section; and
 - (b) allow passengers in wheelchairs or mobility aids to enter, position their aids and exit.
- (2) The minimum dimension from the centre line of the pan to the near-side wall must be 450 mm (**AS1428.1 (2001) Figure 22**).
- (3) The minimum dimension from the centre line of the pan to the far-side wall must be 1150 mm (**AS1428.1 (2001) Figure 22**).
- (4) The minimum dimension from the back wall to the front edge of the pan must be 800 mm (**AS1428.1 (2001) Figure 22**).
- (5) The toilet seat must be between 460 mm and 480 mm above the floor (**AS1428.1 (2001) Figure 18**).
- (6) Hand washing facilities must be provided either inside or outside the toilet (**AS1428.1 (2001) Clause 10.2.1 (b)**, *Water closets*).

Conveyances

- Ferries
 - Accessible rail cars
-

Temporary exemption: Narrow gauge and standard gauge accessible rail cars

For a period of three years, compliance with clause 15.4 is not required for narrow gauge and standard gauge accessible rail cars, subject to the following conditions:

- accessible toilets are configured and maintained such that passengers using mobility aids (that conform to the assumptions in Part 40 of the Disability Standards for Accessible Public Transport Guidelines 2004 (No 3)) may enter, position their aids, use the accessible toilets and exit;
- the ARA member concerned consults with the Australian Federation of Disability Organisations every 12 months on the impact of this exemption on passenger amenity; and

- the ARA member concerned reports to the Commission every 12 months during the period of this exemption on the design and configuration of any accessible toilets that have been implemented, the impact of this exemption on passenger amenity, and the outcome of the consultation with the Australian Federation of Disability Organisations.

17.5 Signs - Electronic notices

- (1) Presentations of words or numbers on electronic notices must be visible for at least 10 seconds, unless the electronic notice is for the purpose of ticket validation.
- (2) If the electronic notice is for this purpose, the words or numbers on the notice must cease to be visible before the end of 10 seconds if the ticket validation device is used by another person within that time.

Premises

Infrastructure

Temporary exemption: rail premises and rail infrastructure

For a period of three years, electronic notices may be displayed at rail premises and rail infrastructure for less than 10 seconds where more frequent updating is necessary because of the frequency of services or the volume of information to be displayed. This exemption is subject to the condition that the ARA member concerned:

- consults with the Australian Federation of Disability Organisations every 12 months on the impact of this exemption on passenger amenity; and
- reports to the Commission every 12 months during the period of this exemption on the impact of this exemption on passenger amenity and the outcome of the consultation with the Australian Federation of Disability Organisations.

17.6 Signs - Raised lettering or symbols or use of Braille

- (1) If a sign incorporates raised lettering or symbols, they must be at least 0.8 mm above the surface of the sign.
- (2) If an operator or provider supplements a notice with Braille characters, they must be placed to the left of the raised characters.

Conveyances

Premises

Infrastructure

Temporary exemption: rail conveyances

For a period of three years, the 0.8mm height specification for raised lettering or symbols may be reduced to 0.6mm for rail conveyances.

18.1 Tactile ground surface indicators - Location

Tactile ground surface indicators must be installed on an access path to indicate stairways, ramps, changes of direction, overhead obstructions below a height of 2000 mm, and hazards within a circulation space or adjacent to a path of travel (**AS1428.2 (1992) Clause 18.1**, *Tactile ground surface indicators*).

Premises

Infrastructure

Temporary exemption: rail premises and rail infrastructure

For a period of three years, compliance with clause 18.1 is not required on rail premises and rail infrastructure, subject to the condition that the ARA member concerned:

- adopts architectural solutions or alternative way finding aids consistent with AS1428.4: 2002 Appendix B;
- consults with the Australian Federation of Disability Organisations every 12 months on the impact of this exemption on passenger amenity, in particular for people with vision impairments and people with physical disabilities; and
- reports to the Commission every 12 months during the period of this exemption on their implementation of architectural solutions or alternative way finding aids, the impact of this exemption on passenger amenity, and the outcome of the consultation with the Australian Federation of Disability Organisations.

18.2 Tactile ground surface indicators - Style and dimensions

- (1) The style and dimensions of tactile ground surface indicators must comply with **AS1428.4 (1992)**.
- (2) The stated dimensions may be reduced where a conveyance design does not provide the necessary area.

Premises

Infrastructure

Temporary exemption: rail conveyances

For a period of three years, tactile ground surface indicators are not required to be installed on rail conveyances.

20.1 Lighting - Illumination levels — premises and infrastructure

Any lighting provided must comply with minimum levels of maintenance illumination for various situations shown in the notes to **AS1428.2 (1992) Clause 19.1**, *Illumination levels*

Temporary exemption: rail premises and rail infrastructure

For a period of three years, compliance with clause 20.1 is not required on rail premises and rail infrastructure, subject to the condition that the ARA member concerned complies in full with the lighting levels set out in ARA's revised application dated 24 February 2006 (as detailed in the table below) by 31 December 2007.

TABLE 1 – RECOMMENDED LIGHTING LEVELS FOR RAILWAY STATIONS

	CODE REQUIREMENTS					COMMENT	RECOMMENDED ILLUMINANCE			RECOMMENDED UNIFORMITY	
	CODE		Eav	E min	EV min		Eav	E min	EV min	U1	U2
ENCLOSED STATIONS											
ENTRANCE, PASSAGEWAYS, WALKWAYS	AS1428.2	SECTION 19	150				150			0.5	
STAIRS	AS1428.2	SECTION 19	150				150			0.5	
RAMPS	AS1428.2	SECTION 19	150				150			0.5	
TOILETS AND LOCKER ROOMS	AS1428.2	SECTION 19	200				200			0.5	
COUNTER TOPS	AS1428.2	SECTION 19	250				250			0.5	
DISPLAYS (TIMETABLES)	AS1428.2	SECTION 19	200-300				200			0.5	
TELEPHONES (TICKET MACHINES)	AS1428.2	SECTION 19	200				200			N/A	
GENERAL PLATFORM	AS1680.2.1	TABLE E1, 1.2	160				160			0.5	
YELLOW LINE (PLATFORM EDGE)						NOTE 1	150				
OPEN STATIONS											
TOILETS AND LOCKER ROOMS	AS1428.2	SECTION 19	200				200			0.5	
COUNTER TOPS	AS1428.2	SECTION 19	250				250			0.5	
DISPLAYS (TIMETABLES)	AS1428.2	SECTION 19	200-300				200			0.5	
TELEPHONES (TICKET MACHINES)	AS1428.2	SECTION 19	200				200			N/A	
YELLOW LINE						NOTE 1	30				

(PLATFORM EDGE)												
GENERAL PLATFORM	AS1158.3.1	CAT P6	21	7	7	NOTE 2	42	21	14			7
COVERED AREAS	AS1680.2.1	TABLE E1, 1.2	160				160				0.5	
CORE AREAS (AWNING)	AS1680.2.1	TABLE E1, 1.2	160				160				0.5	
RAMPS AND STEPS (OPEN)	AS1158.3.1	P8	7	2	2	NOTES 4 & 5	42	21	14			7
OPEN FOOTBRIDGE	AS1158.3.1	CAT P8	7	2	2	NOTES 4 & 5	42	21	14			7
PRIMARY ACCESS PATHS	AS1158.3.1	CAT P6	21	7	7	NOTE 2	42	21	14			7
ENCLOSED FOOTBRIDGE	AS 1428.2	SECTION 19	150				150				0.5	
SUBWAYS	AS1158.3.1	CAT P10	35	17.5	17.5		35	17.5	17.5			7

21.1 Controls - Compliance with Australian Standard — premises and infrastructure

Controls must comply with **AS1428.1 (2001) Clause 11**.

Premises

Infrastructure

except airports that do not accept regular public transport services

Temporary exemption: rail premises and rail infrastructure

For a period of three years, controls in rail premises and rail infrastructure are not required to comply with clause 21.1, subject to the condition that the controls concerned meet the requirement of a maximum 20N force for operation.

26.2 Hearing augmentation – listening systems - Public address systems — conveyances

If a public address system is installed:

- (a) people who are deaf or have a hearing impairment must be able to receive a message equivalent to the message received by people without a hearing impairment; and
- (b) it must comply with **AS1428.2 (1992) Clause 21.1, Hearing augmentation**.

Conveyances

- Buses
 - Coaches
 - Ferries
 - Trains
 - Trams
 - Light rail
-

Temporary exemption: rail conveyances

For a period of three years, public address systems in rail conveyances are not required to comply with clause 26.2(b). This exemption is subject to the condition that the ARA member concerned:

- ensures equivalent access for people who are deaf or have a hearing impairment to information provided via the public address system;
- consults with the Australian Federation of Disability Organisations every 12 months on the impact of this exemption on passenger amenity; and
- reports to the Commission every 12 months during the period of the exemption on measures taken to ensure equivalent access, the impact of this exemption on passenger amenity, and on the outcome of the consultation with the Australian Federation of Disability Organisations.

27.2 Information - Direct assistance to be provided

If information cannot be supplied in a passenger's preferred format, equivalent access must be given by direct assistance.

Note See sections 33.3 to 33.6 in relation to equivalent access and direct assistance.

Conveyances

Premises

Infrastructure

Temporary exemption: rail conveyances, rail premises and rail infrastructure

For a period of three years, direct assistance is not required if ARA members provide equivalent access by other means on rail conveyances, rail premises and rail infrastructure. This exemption is subject to the condition that the ARA member concerned:

- consults with the Australian Federation of Disability Organisations every 12 months on the equivalent access measures implemented and the impact of this exemption on passenger amenity; and
- reports to the Commission every 12 months during the period of this exemption on the equivalent access measures implemented, the impact of this

exemption on passenger amenity, and the outcome of the consultation with the Australian Federation of Disability Organisations.

27.3 Information - Size and format of printing

- (1) Large print format type size must be at least 18 point sans serif characters.
- (2) Copy must be black on a light background.

Conveyances

Premises

Infrastructure

Temporary exemption: rail conveyances, rail premises and rail infrastructure

For a period of three years, compliance with clause 27.3(2) is not required for rail conveyances, rail premises and rail infrastructure if alternative colours adopted provide strong contrast, including for people with impaired colour vision. This exemption is subject to the condition that the ARA member concerned:

- consults with the Australian Federation of Disability Organisations every 12 months on the alternative colours adopted and on the impact of this exemption on passenger amenity; and
- reports to the Commission every 12 months during the period of this exemption on alternative colours adopted, the impact of this exemption on passenger amenity, and on the outcome of the consultation with the Australian Federation of Disability Organisations.

28.1 Booked services - Notice of requirement for accessible travel

Operators of booked services may request advance notice of a requirement for accessible travel.

Conveyances

- Aircraft
 - Coaches
 - Ferries
 - Dial-a-ride services
 - Trains
-

28.2 Booked services - Period of notice of requirement for accessible travel

Any advance notice required of a requirement for accessible travel must not exceed the period of notice specified for other passengers.

Conveyances

- Coaches
 - Ferries
 - Dial-a-ride services
 - Trains
-

Temporary exemption: rail conveyances

For a period of three years, ARA members operating rail conveyances may require reasonable notice of a requirement for accessible travel, even if this notice period exceeds the period of notice specified for other passengers.

31.1 Priority - Priority seating

Operators must designate at least 2 of the seats provided on their unbooked conveyances as priority seating for passengers with disabilities and other groups in need of special assistance (for example, the aging).

Conveyances

- Buses
 - Ferries
 - Rail cars
 - Trams
 - Light rail
-

Temporary exemption: rail conveyances

For a period of three years, ARA members may determine the orientation and location of allocated spaces and priority seating on rail conveyances, in a manner consistent with Part 31 of the Disability Standards for Accessible Public Transport Guidelines 2004 (No 3) (as they exist at the date of this decision).

This exemption is subject to the condition that the ARA member concerned consults with the Australian Federation of Disability Organisations prior to determining the orientation and location of allocated spaces and priority seating.

SCHEDULE TWO

NOTICE OF REJECTION OF APPLICATION FOR TEMPORARY EXEMPTIONS

NOTICE OF DECISION TO DEFER CONSIDERATION OF APPLICATION FOR TEMPORARY EXEMPTIONS

Assistance animals: ARA proposal 1.11AX

The Commission defers its decision on ARA's application for a temporary exemption in the terms of their proposal 1.11AX. The ARA's proposal would permit operators to require passengers to present evidence that an assistance animal has been trained to alleviate the effects of their disability and that the animal meets appropriate standards of behaviour, before allowing the assistance animal to accompany the passenger. The Commission has formed the view that further consultation is required between the ARA and interested parties, including the Commission, on the nature of the evidence that ARA members should be permitted to require passengers to present.

Boarding Point: ARA proposal 1.11BX

The Commission declines to grant ARA's application for a temporary exemption in the terms of their proposal 1.11BX. The Commission has formed the view that the ARA proposal 1.11BX does not constitute an exemption from the operation of a provision of Division 1 or Division 2 (including section 32) of the DDA, but is rather a statement interpreting the DSAPT in a manner consistent with their existing effect.

Booked Services on Trains: ARA proposal 1.11CX

The Commission declines to grant ARA's application for a temporary exemption in the terms of their proposal 1.11CX. The Commission has formed the view that the ARA proposal 1.11CX does not constitute an exemption from the operation of a provision of Division 1 or Division 2 (including section 32) of the DDA, but is rather a statement interpreting the DSAPT in a manner consistent with their existing effect.

Unbooked Services on Trains: ARA proposal 1.11DX

The Commission declines to grant ARA's application for a temporary exemption in the terms of their proposal 1.11DX. The Commission has formed the view that the ARA proposal 1.11DX does not constitute an exemption from the operation of a provision of Division 1 or Division 2 (including section 32) of the DDA, but is rather a statement interpreting the DSAPT in a manner consistent with their existing effect.

Disability Aid: ARA proposal 1.15X

The Commission defers its decision on ARA's application for a temporary exemption in the terms of their proposal 1.15X. The Commission has formed the view that further consultation is required between the ARA and interested parties, including the Commission, on the drafting of proposal 1.15X, including any accompanying terms

and conditions which promote achievement of the objects of the DDA and which the ARA is prepared to meet as a condition of receiving the exemption.

1.18 Infrastructure

The Commission declines to grant ARA's application for a temporary exemption from clause 1.8 of the DSAPT. The ARA's application involves amending the definition of the term 'infrastructure' at clause 1.8 of the DSAPT to limit the responsibility of members of the ARA for inaccessible features of retail concessions. The Commission declines to grant this exemption on the basis that retail concessions do not form part of a public transport service and are not covered by the DSAPT.

Level Crossing: ARA proposal 1.18X

The Commission declines to grant ARA's application for a temporary exemption in the terms of their proposal 1.18X. The Commission has formed the view that the ARA proposal 1.18X, to insert a definition of 'level crossing' into the DSAPT, does not constitute an exemption from the operation of a provision of Division 1 or Division 2 (including section 32) of the DDA. This is because the definition of 'level crossing' proposed by the ARA does not vary the existing obligations of members of the ARA under the DSAPT.

Mobility Aid: ARA proposal 1.19AX

The Commission declines to grant ARA's application for a temporary exemption in the terms of their proposal 1.19AX, to exempt members of the ARA from their obligation to accommodate mobility aids if such aids are designed for use by more than one person or for recreational purposes.

The objects of the DDA include to eliminate discrimination against people with disabilities in the area of access to premises and the provision of services. The Commission considers that, consistently with the objects of the DDA, the innovative use of technology by people with disabilities to gain access to premises and services should not be unnecessarily hindered. The Commission has formed the view that limiting an ARA member's obligation to accommodate mobility aids on the basis that they have been designed for use by more than one person or for recreational purposes, in circumstances where they otherwise meet the size and performance requirements set out in the DSAPT, would not be consistent with the objects of the DDA.

The Commission defers its decision on ARA's application for a temporary exemption in the terms of their proposal 1.19AX, to limit the obligations of ARA members in relation to mobility aids that do not conform to the assumptions in Part 40 of the Disability Standards for Accessible Public Transport Guidelines 2004 (No 3). The Commission has formed the view that further consultation is required between the ARA and interested parties, including the Commission, on more precise specification of the situations in which limitations on the size of mobility aids may be necessary in a rail environment.

Nominated Accessible Boarding Point: ARA proposal 1.19BX

The Commission declines to grant ARA's application for a temporary exemption in the terms of their proposal 1.19BX. The Commission has formed the view that the ARA proposal 1.19BX, to insert a definition of 'nominated accessible boarding point' into the DSAPT, does not constitute an exemption from the operation of a provision of Division 1 or Division 2 (including section 32) of the DDA. This is because the phrase 'nominated accessible boarding point' does not appear in the DDA or the DSAPT. The phrase formed part of the ARA's application for a temporary exemption from clause 2.1 of the DSAPT, in relation to which the Commission has decided to defer its decision.

1.21 Premises

The Commission declines to grant ARA's application for a temporary exemption from clause 1.21 of the DSAPT. The Commission has formed the view that amending the definition of 'premises' in the terms proposed by the ARA does not constitute an exemption from the operation of a provision of Division 1 or Division 2 (including section 32) of the DDA, but is rather an amendment to the DSAPT that is consistent with existing obligations under the DSAPT.

Sleeping berth: ARA proposal 1.23X

The Commission declines to grant ARA's application for a temporary exemption in the terms of their proposal 1.23X. The Commission has formed the view that the ARA proposal 1.23X, to insert a definition of 'sleeping berths' into the DSAPT, does not constitute an exemption from the operation of a provision of Division 1 or Division 2 (including section 32) of the DDA. This is because the definition of 'sleeping berths' proposed by the ARA does not vary the existing obligations of members of the ARA under the DSAPT.

Mobility aid: ARA proposal 1X1.

The Commission defers its decision on ARA's application for a temporary exemption in the terms of their proposal 1X1, to limit the obligations of ARA members in relation to mobility aids that do not conform to the assumptions in Part 40 of the Disability Standards for Accessible Public Transport Guidelines 2004 (No 3). The Commission has formed the view that further consultation is required between the ARA and interested parties, including the Commission, on more precise specification of the situations in which limitations on the size of mobility aids may be necessary in a rail environment.

Performance criteria: ARA proposal 1X2.

The Commission declines to grant ARA's application for a temporary exemption in the terms of their proposal 1X2, to insert a requirement that mobility aids be able to cross flange gaps. The Commission has formed the view that this issue has been adequately addressed by the temporary exemption granted to members of the ARA in relation to clause 2.1 of the DSAPT (see Schedule one).

The Commission defers its decision on ARA's application for a temporary exemption in the terms of their proposal 1X2, regarding staff assistance with the stowage and operation of mobility aids. The Commission has formed the view that further consultation is required between the ARA and interested parties, including the Commission, on the drafting of the proposed exemption, including any accompanying terms and conditions to promote achievement of the objects of the DDA and which the ARA is prepared to meet as a condition of receiving the exemption.

The Commission declines to grant ARA's application for a temporary exemption in the terms of their proposal 1X2, regarding safety and stability requirements for mobility aids. The Commission has formed the view that the ARA proposal does not constitute an exemption from the operation of a provision of Division 1 or Division 2 (including section 32) of the DDA, but is rather a statement interpreting the DSAPT in a manner consistent with their existing effect.

The Commission declines to grant ARA's application for a temporary exemption in the terms of their proposal 1X2, requiring mobility aids to provide anchorage points. The Commission has formed the view that the basis for this exemption has not been demonstrated by the ARA to be justified by reference to the objects of the DDA.

2.1 Access paths – Unhindered passage

The Commission defers its decision on ARA's application for a temporary exemption from clause 2.1 of the DSAPT, to permit provision of an access path only to a single boarding point. The Commission has formed the view that further consultation between the ARA and interested parties, including the Commission, is required to determine:

- whether an exemption permitting provision of an access path only to a single boarding point can be limited to situations where the restriction is necessary in a particular rail environment; and
- the accompanying terms and conditions to ensure that the exemption does not unduly impair equal access for people with disabilities in practice.

2.2 Access paths - Continuous accessibility

The Commission declines to grant ARA's application for a temporary exemption from clause 2.2 of the DSAPT. The Commission has formed the view that the ARA proposal does not constitute an exemption from the operation of a provision of Division 1 or Division 2 (including section 32) of the DDA, but is rather an amendment to the DSAPT that is consistent with existing obligations under the DSAPT.

2.5 Access paths - Poles and obstacles, etc

The Commission defers its decision on ARA's application for a temporary exemption from clause 2.5 of the DSAPT, to permit replacement of luminance contrast with colour contrast. The Commission has formed the view that further consultation is

required between the ARA and interested parties, including the Commission, to determine the impact of the ARA's proposal on people with disabilities.

2.6 Access paths - Conveyances

The Commission defers its decision on ARA's application for a temporary exemption from clause 2.6 of the DSAPT, to permit a reduction in the width of access paths within rail conveyances to 760mm in certain circumstances. The Commission has formed the view that further consultation is required between the ARA and interested parties, including the Commission, to determine:

- with more precision the circumstances in which the exemption would apply; and
- the impact of the ARA's proposal on people with disabilities.

2.8 Access paths - Extent of path

The Commission declines to grant ARA's application for a temporary exemption from clause 2.8 of the DSAPT. The Commission has formed the view that this issue has been adequately addressed by the temporary exemption granted to members of the ARA in relation to clause 2.6 of the DSAPT (see Schedule One).

4.1 Passing areas - Minimum width

The Commission declines to grant ARA's application for a temporary exemption from clause 4.1 of the DSAPT. The Commission has formed the view that the ARA proposal does not constitute an exemption from the operation of a provision of Division 1 or Division 2 (including section 32) of the DDA, but is rather an amendment to the DSAPT that is consistent with existing obligations under the DSAPT.

4.3 Passing areas - Conveyances

The Commission defers its decision on ARA's application for a temporary exemption from clause 4.3 of the DSAPT. The Commission has formed the view that further consultation between the ARA and interested parties, including the Commission, is required to determine:

- whether the ARA's proposed change to obligations in relation to passing areas on rail conveyances would diminish access for people with disabilities; and
- the accompanying terms and conditions to ensure equivalent access through staff assistance.

6.1 Ramps - Ramps on access paths

The Commission declines to grant ARA's application for a temporary exemption from clause 6.1 of the DSAPT. The Commission has formed the view that the ARA

proposal does not constitute an exemption from the operation of a provision of Division 1 or Division 2 (including section 32) of the DDA. This is because the use by members of the ARA of updated Australian Standard specifications as proposed by the ARA is permitted by the equivalent access provision at clause 33.3 of the DSAPT.

6.2 Ramps - Boarding ramps

The Commission declines to grant ARA's application for a temporary exemption from clause 6.2 of the DSAPT. The Commission has formed the view that the ARA proposal does not constitute an exemption from the operation of a provision of Division 1 or Division 2 (including section 32) of the DDA, but is rather an amendment to the DSAPT that is consistent with existing obligations under the DSAPT.

6.3 Ramps - Minimum allowable width

The Commission declines to grant ARA's application for a temporary exemption from clause 6.3 of the DSAPT. The Commission has formed the view that the issue has been adequately addressed by the temporary exemption granted to members of the ARA from clause 8.5 of the DSAPT (See Schedule One).

8.2 Boarding - When boarding devices must be provided

The Commission declines to grant ARA's application for a temporary exemption from clause 8.2 of the DSAPT. The Commission has formed the view that the ARA proposal does not constitute an exemption from the operation of a provision of Division 1 or Division 2 (including section 32) of the DDA, but is rather a statement interpreting the DSAPT in a manner consistent with their existing effect.

8.6 Boarding - Maximum load to be supported by boarding device

The Commission declines to grant ARA's application for a temporary exemption from clause 8.6 of the DSAPT. The Commission has formed the view that the ARA proposal does not constitute an exemption from the operation of a provision of Division 1 or Division 2 (including section 32) of the DDA, but is rather a statement interpreting the DSAPT in a manner consistent with their existing effect.

8.8 Boarding - Notification by passenger of need for boarding device

The Commission defers its decision on ARA's application for a temporary exemption from clause 8.8 of the DSAPT. The Commission has formed the view that further consultation between the ARA and interested parties, including the Commission, is required to determine the likely impact of the ARA's proposed change to specifications for signal devices on people with disabilities.

9.6 Allocated space - Number of allocated spaces to be provided - train cars, etc

The Commission defers its decision on ARA's application for a temporary exemption from clause 9.6 of the DSAPT. The Commission has formed the view that further

consultation between the ARA and interested parties, including the Commission, is required to determine the impact of the ARA's proposal on people with disabilities.

9.7 Allocated space - Consolidation of allocated spaces

The Commission defers its decision on ARA's application for a temporary exemption from clause 9.7 of the DSAPT. The Commission has formed the view that further consultation is required between the ARA and interested parties, including the Commission, to determine if this application involves a request for an exemption from the operation of a provision of Division 1 or Division 2 (including section 32) of the DDA, or is rather a statement interpreting the DSAPT in a manner consistent with their existing effect.

10.1 Surfaces - Compliance with Australian Standard

The Commission declines to grant ARA's application for a temporary exemption from clause 10.1 of the DSAPT. The Commission has formed the view that the ARA proposal does not constitute an exemption from the operation of a provision of Division 1 or Division 2 (including section 32) of the DDA. This is because the use by members of the ARA of updated Australian Standard specifications as proposed by the ARA is permitted by the equivalent access provision at clause 33.3 of the DSAPT.

10.1X Surfaces - Compliance with Australian Standard

The Commission declines to grant ARA's application for a temporary exemption in the terms of their proposal 10.1X. The Commission has formed the view that the ARA proposal 10.1X does not constitute an exemption from the operation of a provision of Division 1 or Division 2 (including section 32) of the DDA, but is rather an amendment to the DSAPT that is consistent with existing obligations under the DSAPT.

11.1 Handrails and grabrails - Compliance with Australian Standard - premises and infrastructure

The Commission defers its decision on ARA's application for a temporary exemption from clause 11.1 of the DSAPT, to permit replacement of luminance contrast with colour contrast. The Commission has formed the view that further consultation between the ARA and interested parties, including the Commission, is required to determine the impact of the ARA's proposal on people with disabilities.

11.2 Handrails and grabrails - Handrails to be provided on access paths

The Commission has granted to members of the ARA a temporary exemption from compliance with clause 11.2 of the DSAPT for rail platforms (see Schedule One).

The Commission defers its decision on ARA's application for a temporary exemption from the requirement to comply with clause 11.2 of the DSAPT in areas other than rail platforms, on rail premises and rail infrastructure. The Commission has formed the view that further consultation between the ARA and interested parties, including the Commission, is required to determine:

- with more precision the circumstances in which the exemption would apply; and
- the impact of the ARA's proposal on people with disabilities.

11.3 Handrails and grabrails - Handrails on steps

The Commission defers its decision on ARA's application for a temporary exemption from clause 11.3 of the DSAPT. The Commission has formed the view that further consultation is required between the ARA and interested parties, including the Commission, to determine if this proposal involves a request for an exemption from the operation of a provision of Division 1 or Division 2 (including section 32) of the DDA, or is rather a statement interpreting the DSAPT in a manner consistent with their existing effect.

11.4 Handrails and grabrails - Handrails above access paths

The Commission declines to grant ARA's application for a temporary exemption from clause 11.4 of the DSAPT. The Commission has formed the view that the ARA proposal does not involve a request for an exemption from the operation of a provision of Division 1 or Division 2 (including section 32) of the DDA. This is because clause 11.4 of the DSAPT only operates if handrails have been installed.

11.5 Handrails and grabrails - Compliance with Australian Standard

The Commission declines to grant ARA's application for a temporary exemption from clause 11.5 of the DSAPT. The Commission has formed the view that the instances where design constraints prevent compliance with clause 11.5 of the DSAPT may be addressed through the provisions for unjustifiable hardship (clause 33.7) and equivalent access (clause 33.3) in the DSAPT.

11.6 Handrails and grabrails - Grabrail to be provided where fares are to be paid

The Commission defers its decision on ARA's application for a temporary exemption from clause 11.6 of the DSAPT. The Commission has formed the view that further consultation is required between the ARA and interested parties, including the Commission, to determine the terms and conditions of the exemption to ensure that equivalent access is provided.

11.7 Handrails and grabrails - Grabrails to be provided in allocated spaces

The Commission declines to grant ARA's application for a temporary exemption from clause 11.7 of the DSAPT. The Commission has formed the view that the ARA proposal does not involve an application for an exemption from the operation of a provision of Division 1 or Division 2 (including section 32) of the DDA, but is rather an amendment to the DSAPT that is consistent with existing obligations under the DSAPT.

12.1 Doorways and doors - Doors on access paths

The Commission defers its decision on ARA's application for a temporary exemption from clause 12.1 of the DSAPT. The Commission has formed the view that further consultation is required between the ARA and interested parties, including the Commission, to determine whether there are safety issues involved in relying on operator assistance for the operation of emergency exits.

12.3 Doorways and doors - Weight activated doors and sensors

The Commission declines to grant ARA's application for a temporary exemption from clause 12.3 of the DSAPT. The Commission has formed the view that the ARA proposal does not constitute an exemption from the operation of a provision of Division 1 or Division 2 (including section 32) of the DDA, but is rather an amendment to the DSAPT that is consistent with existing obligations under the DSAPT.

13.1 Lifts - Compliance with Australian Standard - premises and infrastructure

The Commission declines to grant ARA's application for a temporary exemption from clause 13.1 of the DSAPT. The Commission has formed the view that the ARA proposal does not constitute an exemption from the operation of a provision of Division 1 or Division 2 (including section 32) of the DDA, but is rather an amendment to the DSAPT that is consistent with existing obligations under the DSAPT.

14.1 Stairs - Stairs not to be sole means of access

The Commission has granted to members of the ARA a temporary exemption from compliance with clause 14.1 of the DSAPT, for internal stairs on double deck rail cars (see Schedule One).

The ARA has requested an exemption from clause 14.1 of the DSAPT, to permit stairs to be the sole means of access on all rail conveyances, other than to essential facilities for people with disabilities. The Commission defers its decision on this broader application for a temporary exemption from clause 14.1 of the DSAPT. The Commission has formed the view that further consultation is required between the ARA and interested parties, including the Commission, to determine:

- the identification of essential facilities for people with disabilities; and
- the impact of the ARA's proposal on people with disabilities.

15.3 Toilets - Unisex accessible toilet - accessible rail cars

The Commission declines to grant ARA's application for a temporary exemption from clause 15.3 of the DSAPT, to limit ARA members' obligations to provide unisex accessible toilets to passengers using 'compliant mobility aids' rather than 'wheelchairs or mobility aids'. The Commission has formed the view that there is no reason to impose limitations on the type of mobility aid a passenger must use to

access an accessible toilet, because the relevant limitations are provided by the provisions of the DSAPT on access paths (Part 2) and accessible toilets (clause 15.4).

15.4 Toilets - Requirements for accessible toilets - ferries and accessible rail cars

The Commission has granted to members of the ARA a temporary exemption from compliance with clause 15.4 of the DSAPT, in relation to narrow gauge and standard gauge accessible rail cars, subject to certain conditions (see Schedule One).

The Commission defers its decision on whether the temporary exemption granted in relation to narrow and standard gauge rail cars should be applied to broad gauge rail cars. The Commission has formed the view that further consultation is required between the ARA and interested parties, including the Commission, to determine:

- whether technical constraints exist in broad gauge rail cars that affect compliance with clause 15.4 of the DSAPT;
- whether there are safety issues that arise if compliance with clause 15.4 of the DSAPT is achieved in broad gauge rail cars; and
- the impact of the ARA's proposal on people with disabilities.

16.2 Symbols - Compliance with AS2899.1 (1986)

The Commission declines to grant ARA's application for a temporary exemption from clause 16.2 of the DSAPT. The Commission has formed the view that the ARA proposal does not constitute an exemption from the operation of a provision of Division 1 or Division 2 (including section 32) of the DDA. This is because the ARA proposal appears to expand rather than limit the obligations of members of the ARA to provide accessible information under clause 16.2 of the DSAPT.

16.3 Symbols - Accessibility symbols to incorporate directional arrows

The Commission declines to grant ARA's application for a temporary exemption from clause 16.3 of the DSAPT. The Commission has formed the view that the ARA proposal does not constitute an exemption from the operation of a provision of Division 1 or Division 2 (including section 32) of the DDA. This is because the ARA proposal appears to expand rather than limit the obligations of members of the ARA to provide accessible information under clause 16.3 of the DSAPT.

16.5 Symbols - Accessibility symbol to be visible on accessible doors

The Commission defers its decision on ARA's application for a temporary exemption from clause 16.5 of the DSAPT. The Commission has formed the view that further consultation between the ARA and interested parties, including the Commission, is required to determine the impact of the ARA's proposal on people with disabilities.

17.4 Signs - Destination signs to be visible from boarding point

The Commission defers its decision on ARA's application for a temporary exemption from clause 17.5 of the DSAPT. This ARA proposal is dependent upon the Commission granting the ARA's application for an exemption to clause 2.1 of the DSAPT so as to permit provision of an access path only to a single boarding point. As the Commission has decided to defer its decision on the ARA's application for an exemption from clause 2.1 pending further consultation, it has also decided to defer its decision on this proposal.

17.6 Signs - Raised lettering or symbols or use of Braille

The Commission defers its decision on ARA's application for a temporary exemption from clause 17.6 of the DSAPT, for rail premises and rail infrastructure. The Commission has formed the view that further consultation is required between the ARA and interested parties, including the Commission, in relation to the revised specifications proposed by the ARA, having regard to the development of related specifications in the draft Disability Standards on Access to Premises.

18.2 Tactile ground surface indicators - Style and dimensions

The Commission defers its decision on ARA's application for a temporary exemption from clause 18.2 of the DSAPT, regarding the installation of tactile ground surface indicators on rail infrastructure. The Commission has formed the view that further consultation is required between the ARA and interested parties, including the Commission, to determine:

- whether technical constraints exist on rail infrastructure that affect compliance with clause 18.2 of the DSAPT;
- whether there are safety issues that arise if compliance with clause 18.2 of the DSAPT is achieved on rail infrastructure; and
- the impact of the ARA's proposal on people with disabilities.

18.4 Tactile ground surface indicators - Instalment at railway stations

The Commission declines to grant ARA's application for a temporary exemption from clause 18.4 of the DSAPT. The Commission has formed the view that the ARA proposal does not constitute an exemption from the operation of a provision of Division 1 or Division 2 (including section 32) of the DDA, but is rather a statement interpreting the DSAPT in a manner consistent with their existing effect.

19.1 Alarms - Emergency warning systems

The Commission declines to grant ARA's application for a temporary exemption from clause 19.1 of the DSAPT. The Commission has formed the view that the ARA proposal does not constitute an exemption from the operation of a provision of Division 1 or Division 2 (including section 32) of the DDA. This is because the ARA

proposal appears to expand rather than limit the obligations of members of the ARA under clause 19.1 of the DSAPT.

21.2 Controls - Passenger-operated devices for opening and closing doors

The Commission defers its decision on ARA's application for a temporary exemption from clause 21.2 of the DSAPT. The Commission has formed the view that further consultation is required between the ARA and interested parties, including the Commission, to determine whether there are safety issues involved in relying on operator assistance for the operation of emergency exits.

21.3 Controls - Location of passenger-operated controls for opening and locking doors

The Commission defers its decision on ARA's application for a temporary exemption from clause 21.3 of the DSAPT. The Commission has formed the view that further consultation is required between the ARA and interested parties, including the Commission, to determine whether the ARA proposal results in access remaining possible for people needing to approach the door controls side on.

22.1 Furniture and fitments - Tables, benches, counters, etc

The Commission defers its decision on ARA's application for a temporary exemption from clause 22.1 of the DSAPT. The Commission has formed the view that further consultation is required between the ARA and interested parties, including the Commission, to determine the impact of the ARA's proposal on people with disabilities.

22.5 Furniture and fitments - Accessible sleeping berths - trains

The Commission defers its decision on ARA's application for a temporary exemption from clause 22.5 of the DSAPT. The Commission has formed the view that further consultation is required between the ARA and interested parties, including the Commission, on the impact on passengers with disabilities of possible reductions in the numbers of accessible berths required on rail conveyances.

23.1 Street furniture - Seats

The Commission declines to grant ARA's application for a temporary exemption from clause 23.1 of the DSAPT. The Commission has formed the view that the ARA proposal does not involve an application for an exemption from the operation of a provision of Division 1 or Division 2 of the DDA (including section 32), but is rather an amendment to the DSAPT that is consistent with existing obligations under the DSAPT.

24.1 Gateways - Gateways and checkouts

The Commission defers its decision on ARA's application for a temporary exemption from clause 24.1 of the DSAPT. The Commission has formed the view that further consultation is required between the ARA and interested parties, including the

Commission, to determine the impact of the specifications proposed by the ARA on people with disabilities.

25.3 Payment of fares - Vending machines

The Commission defers its decision on ARA's application for a temporary exemption from clause 25.3 of the DSAPT. The Commission has formed the view that further consultation is required between the ARA and interested parties, including the Commission, on the terms and conditions attached to the exemption to ensure that equivalent access is provided.

25.4 Payment of fares - Circulation space in front of vending machine

The Commission defers its decision on ARA's application for a temporary exemption from clause 25.4 of the DSAPT. The Commission has formed the view that further consultation is required between the ARA and interested parties, including the Commission, to determine whether the ARA proposal involves an exemption from existing obligations under Division 1 or Division 2 (including section 32) of the DDA, or is rather an amendment to the DSAPT that is consistent with existing obligations under the DSAPT.

27.1 Information - Access to information about transport services

The Commission declines to grant ARA's application for a temporary exemption from clause 27.1 of the DSAPT. The Commission has formed the view that the ARA's proposal has not been demonstrated by the ARA to be justified by reference to the objects of the DDA.

27.4 Information - Access to information about location

The Commission declines to grant ARA's application for a temporary exemption from clause 27.4 of the DSAPT. The Commission has formed the view that the ARA proposal does not constitute an exemption from the operation of a provision of Division 1 or Division 2 (including section 32) of the DDA. This is because the ARA proposal appears to expand rather than limit the obligations of members of the ARA to provide information under clause 27.4 of the DSAPT.

28.1 Booked services - Notice of requirement for accessible travel

28.2 Booked services - Period of notice of requirement for accessible travel

The Commission defers its decision on ARA's application for a temporary exemption from clauses 28.1 and 28.2 of the DSAPT, in relation to the provision of operator assistance for passengers transferring from a mobility aid to a seat on booked services. The Commission has formed the view that further consultation is required between the ARA and interested parties, including the Commission, to determine:

- the limitations (if any) to be placed on an operator's responsibility to provide assistance to passengers transferring from a mobility aid to a seat on booked services; and

- the impact of the ARA's proposal on people with disabilities.

29.1 Food and drink services - Equal access to food and drink services

The Commission declines to grant ARA's application for a temporary exemption from clause 29.1 of the DSAPT. The Commission has formed the view that the ARA proposal does not constitute an exemption from the operation of a provision of Division 1 or Division 2 (including section 32) of the DDA, but is rather a statement interpreting the DSAPT in a manner consistent with their existing effect.

30.1 Belongings - Disability aids to be in addition to baggage allowance

The Commission defers its decision on ARA's application for a temporary exemption from clause 30.1 of the DSAPT. The Commission has formed the view that further consultation is required between the ARA and interested parties, including the Commission, to determine:

- the limitations (if any) to be placed on the size of disability aids and mobility aids that are required to be accommodated as baggage on rail conveyances;
- the limitations (if any) to be placed on an operator's responsibility to provide assistance in folding, stowing and retrieving disability aids and mobility aids that are required to be accommodated as baggage on rail conveyances; and
- the impact of the ARA's proposal on people with disabilities.

SCHEDULE THREE

THE COMMISSION'S CONSIDERATION OF THE EXEMPTION APPLICATION AND THE REASONS FOR ITS DECISION

1 THE APPLICATION

- 1.1 On 29 July 2005, the ARA made an application on behalf of its members for a number of temporary exemptions from the DDA and the DSAPT, on the condition that members of the ARA comply with a revised set of obligations.
- 1.2 The ARA submitted a revised application dated 24 February 2006, following the consultation process described at Part 4 below.
- 1.3 The ARA argued in both its initial and revised applications, on the points where exemptions were applied for, that the specifications in the DSAPT for how access should be provided were either:
 - a. not capable of being complied with in their terms in a rail environment, and thus would have to be interpreted by extensive and uncertain application of the unjustifiable hardship defence to determine what is required in practice; or
 - b. otherwise failed to give sufficient direction on actions required.
- 1.4 The ARA argued that greater certainty of obligation, in the terms sought in its exemption application, would assist members of the ARA to comply with the objectives of the DSAPT and the DDA.

2 THE COMMISSION'S DECISION TO GRANT THE EXEMPTIONS

- 2.1 Where the Commission has granted the temporary exemption applications, it has accepted these arguments (referred to in paragraphs 1.3 and 1.4 above). The Commission has decided that it would promote and be consistent with the objects of the DDA to grant the temporary exemptions set out in Schedule One, on the basis that:
 - a. increased certainty of obligations will assist members of the ARA in taking measures to improve the accessibility of rail services for people with disabilities; and
 - b. requirements to consult with the Australian Federation of Disability Organisations ('AFDO') and report to the Commission during the exemption period (in the terms set out in Schedule One) will assist the ARA, disability community representatives and the Commission in assessing the current level of compliance with the DSAPT, and in determining future measures to promote accessibility of rail services for people with disabilities. This information is likely to be particularly useful in the context of the forthcoming Ministerial review of the DSAPT.

3 THE PERIOD OF THE EXEMPTIONS

- 3.1 The Commission has decided to grant to members of the ARA the temporary exemptions set out in Schedule One for a period of three years (except in one instance for two years).
- 3.2 In accordance with clause 34 of the DSAPT, the Minister for Transport and Regional Services, in consultation with the Attorney-General, is to review the efficiency and effectiveness of the DSAPT within five years after they take effect, that is by December 2007 ('the Ministerial review'). The Ministerial review must consider:
- a. whether discrimination has been removed, as far as possible, according to the requirements for compliance in the DSAPT; and
 - b. any necessary amendments to the DSAPT.
- 3.3 If, following the Ministerial review, and during the exemption period, the DSAPT are re-made (by the Attorney-General with the approval of the Parliament), in an amended form on any point, the exemptions now granted by the Commission will be displaced and become inoperative. The Commission's decision to grant the temporary exemptions in Schedule One does not purport to pre-empt the role of Ministers in conducting the Ministerial review or of the Attorney-General and the Parliament in considering the results of the review. For this reason, the Commission has decided to limit the period of the exemptions to three years.

4 THE CONSULTATION PROCESS

- 4.1 The Commission's decision to grant the exemptions on the terms set out in Schedule One follows public consultation over a considerable period.
- 4.2 On 2 August 2005, in accordance with the Commission's policy on applications for temporary exemptions under the DDA, a notice of inquiry and call for submissions on the ARA's application was published on the Commission's website, together with a copy of the application. Notice of the ARA's application was also provided to the Accessible Public Transport Jurisdictional Committee ('APTJC') on 2 August 2005.
- 4.3 The Commission requested that submissions be provided by 13 September 2005, it being noted that further processes for participation by interested parties would be determined after consideration of submissions.
- 4.4 69 submissions were received. Submissions continued to be received and accepted for one month after the requested date, in view of the time needed both for people and organisations in the disability community and for the APTJC to consider an application of this scale. The APTJC's submission was provided to the Commission on 12 October 2005. The submissions received electronically were made available, and remain available, on the

Commission's website at
http://www.humanrights.gov.au/disability_rights/exemptions/ara/subs.htm

- 4.5 A revised application was submitted by the ARA on 24 February 2006, following its consideration of the issues raised in the submissions.
- 4.6 A meeting chaired by the Commissioner responsible for Disability Discrimination was convened on 6 April 2006, involving:
- a. the ARA and its member rail operators and manufacturers;
 - b. members of the APTJC (including the Attorney-General's Department which has observer status on the APTJC);
 - c. disability community members of the Accessible Public Transport National Advisory Committee ('APTNAAC'), including AFDO; and
 - d. representatives of People With Disability Australia, Queenslanders with Disabilities Network and the Disability Council of NSW. These organisations provided the most detailed submissions on the ARA's application.
- 4.7 Following this meeting, on 13 September 2006, the Commission issued a consultation draft of recommendations for decision. This document and the submissions received in response to it are available on the Commission's website at
http://www.humanrights.gov.au/disability_rights/exemptions/ara/noi.htm
- 4.8 The APTJC has indicated agreement with the decisions made by the Commission in response to the ARA's application. This document is available at
http://www.humanrights.gov.au/disability_rights/exemptions/ara/APTJCrev.doc
- 4.9 Submissions received by the disability community, for the most part, did not favour granting the exemptions. Many submissions argued that issues raised by the ARA should be dealt with through the Ministerial review process. In some instances, the Commission accepted this argument (see Part 5.2 below).
- 4.10 In relation to those instances where the Commission decided to grant the exemptions, it dealt with this concern by limiting the period of the exemption to three years and by providing that the exemptions granted by the Commission would be displaced by any amendment to the DSAPT arising from the Ministerial review process (see paragraph 3.3 above).

5 THE COMMISSION'S DECISION TO REFUSE THE EXEMPTIONS OR TO DEFER ITS CONSIDERATION OF THE APPLICATION

- 5.1 The Commission declined to grant a number of the exemptions sought by the ARA. The reasons for the Commission's decision are set out in Schedule Two.

- 5.2 The Commission declined to grant a number of the exemptions sought by the ARA, on the basis that the ARA proposal did not constitute an exemption from the operation of a provision of Division 1 or Division 2 of the DDA, but was rather an amendment to the DSAPT that was consistent with their existing effect. The Commission considered that these amendments would be more appropriately considered in the context of the Ministerial review.
- 5.3 The Commission deferred its consideration of a number of the exemptions sought by the ARA, on the basis that further consultation between the ARA and interested parties, including the Commission, was required. The reasons for the Commission's decision are set out in Schedule Two.