

2009 No. 428

DISABLED PERSONS

**The Disability Discrimination (Transport Vehicles) Regulations
(Northern Ireland) 2009**

Made - - - - - *21st December 2009*

Coming into operation - - - - - *25th January 2010*

The Office of the First Minister and deputy First Minister, in exercise of the powers conferred upon it by sections 21(5)(e), (f) and (h), and 21ZA(3) of the Disability Discrimination Act 1995(a), and now vested in it(b), makes the following Regulations.

Citation and commencement

1. These Regulations may be cited as the Disability Discrimination (Transport Vehicles) Regulations (Northern Ireland) 2009 and shall come into operation on 25th January 2010.

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954(c) applies to these Regulations as it applies to an Act of the Assembly.

(2) In these Regulations—

“the Act” means the Disability Discrimination Act 1995;

“breakdown or recovery operator” means a provider of roadside assistance services for the purpose of recovering or repairing a broken down vehicle;

“hire vehicle” means an M1, M2 or N1(d) vehicle which is hired out by a vehicle-hire firm under a hiring agreement;

“hiring agreement” means an agreement for the hire of an M1, M2 or N1 vehicle being an agreement which contains such particulars as may be prescribed under Article 88 of the Road Traffic Offenders (Northern Ireland) Order 1996(e) but does not include a hire-purchase agreement within the meaning of section 189 of the Consumer Credit Act 1974(f);

“M1”, in relation to a vehicle, means a vehicle designed and constructed for the carriage of passengers and comprising no more than 8 seats in addition to the driver’s seat;

(a) 1995 c.50; section 21ZA(3) was inserted by Article 7 of the Disability Discrimination (Northern Ireland) Order 2006 (S.I. 2006/312 (N.I.1))
(b) See S.R. 1999 No. 481; Article 8(a) and Schedule 6, Part I
(c) 1954 c.33 (N.I.)
(d) The definitions of M1, M2 and N1 vehicles derive from the definition of vehicle categories in Annex II(A) of Council Directive 70/156/EEC (O.J. No.L 42, 23.2.1970, p.1), as last amended by Council Directive 2004/3/EC (O.J. No. L49, 19.2.2004, p.36)
(e) S.I. 1996/1320 (N.I.10)
(f) 1974 c.39

“M2”, in relation to a vehicle, means a vehicle designed and constructed for the carriage of passengers, comprising more than 8 seats in addition to the driver’s seat and having a maximum mass not exceeding 5 tonnes;

“N1”, in relation to a vehicle, means a vehicle designed and constructed for the carriage of goods and having a maximum mass not exceeding 3.5 tonnes;

“private hire vehicle” means a vehicle which—

- (a) seats not more than 8 passengers in addition to the driver; and
- (b) is licensed under Article 61 of the Road Traffic (Northern Ireland) Order 1981^(a) to carry passengers for hire (but not to stand or ply for hire);

“public service vehicle” means a vehicle which—

- (a) seats more than 8 passengers in addition to the driver; and
- (b) is a public service vehicle for the purposes of the Road Traffic (Northern Ireland) Order 1981;

“rail vehicle” means a vehicle constructed or adapted to carry passengers by rail;

“taxi” means a vehicle which—

- (a) is licensed under Article 61 of the Road Traffic (Northern Ireland) Order 1981 to stand or ply for hire; and
- (b) seats not more than 8 passengers in addition to the driver; and

“vehicle-hire firm” means any person engaged in hiring vehicles in the course of a business.

Discrimination in relation to goods, facilities and services

3.—(1) Section 21ZA(1) of the Act does not apply to a provider of transport services who provides such services by way of a vehicle described in paragraph (2).

(2) Those vehicles are—

- (a) M1, M2 or N1 hire vehicles;
- (b) private hire vehicles;
- (c) public service vehicles;
- (d) rail vehicles;
- (e) taxis;
- (f) vehicles deployed by a breakdown or recovery operator, whether or not through a third party, the sole or partial purpose of which is to transport the driver and occupants of a broken down vehicle from the scene of an accident or breakdown; and
- (g) vehicles deployed on a system using a mode of guided transport.

Duty of providers of transport services to make adjustments

4.—(1) Section 21ZA(2)(b) of the Act, in so far as it relates to the application of section 21(1) and (4) of that Act, does not apply to a provider of transport services who provides such services by way of a vehicle described in paragraph (2).

(2) Those vehicles are—

- (a) M2 and N1 hire vehicles;
- (b) private hire vehicles;
- (c) public service vehicles;
- (d) rail vehicles;

(a) S.I. 1981/154 (N.I. 1); Article 61 was amended by Article 7 of the Road Traffic, Transport and Roads (Northern Ireland) Order 1984 (S.I. 1984/1986 (N.I. 15))

- (e) taxis; and
- (f) vehicles deployed on a system using a mode of guided transport.

Breakdown and recovery services

5. Section 21ZA(2)(b) of the Act, in so far as it relates to the application of section 21(1), (2)(d) and (4) of that Act, does not apply to a vehicle deployed by a breakdown or recovery operator, whether or not through a third party, the sole or partial purpose of which is to transport the driver and occupants of a broken down vehicle from the scene of an accident or breakdown.

Vehicle hire services

6. Section 21ZA(2) of the Act does not apply to a provider of transport services who provides such services by way of an M1 hire vehicle.

Auxiliary aids and services

7. For the purposes of section 21(4) of the Act, as applied to the vehicles described in regulations 4 and 5, the following are not to be treated as auxiliary aids or services—

devices, structures or equipment the installation, operation or maintenance of which would necessitate making a permanent alteration to or which would have a permanent effect on either the internal or external physical fabric of a vehicle.

Physical features

8.—(1) Subject to paragraph (2), for the purposes of section 21(2) of the Act, as applied to M1 hire vehicles by regulation 6, any part of the vehicle which requires alteration in order to facilitate the provision of—

- (a) hand controls to enable a disabled person to operate braking and accelerator systems in the vehicle; and
- (b) facilities for the stowage of a wheelchair,

is to be treated as a physical feature.

(2) The following are not to be treated as physical features—

- (a) for the purposes of paragraph (1)(a), fixed seating and in-built electrical systems; and
- (b) for the purposes of paragraph (1)(b), fixed seating.

Sealed with the Official Seal of the Office of the First Minister and deputy First Minister on 21st December 2009.



Gerard Mulligan
A senior officer of the
Office of the First Minister and deputy First Minister

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide for certain provisions in Part III of the Disability Discrimination Act 1995 (“the Act”) to apply to the providers of certain transport services.

The exemption from the application of certain parts of section 19(1) of the Act relating to discrimination in relation to goods, facilities and services is disapplied in respect of the provision of transport services by way of a vehicle of a kind listed in regulation 3.

The exemption from the application of certain parts of section 21 of the Act relating to the duty of providers of services to make adjustments in respect of practices, policies or procedures and in respect of the provision of auxiliary aids or services is disapplied in respect of the provision of transport services by way of a vehicle of a kind listed in regulation 4.

The exemption from the application of that part of section 21(2) of the Act relating to the duty of providers of services to take reasonable steps, where a physical feature makes it impossible or unreasonably difficult for a disabled person to use that service, to provide a reasonable alternative method of making the service available, is disapplied in respect of breakdown and recovery vehicles (regulation 5).

The exemption from the application of section 21(2) of the Act relating to the duty of providers of services to take various reasonable steps to overcome physical impediments to the use of a service by disabled persons is disapplied in respect of hire vehicles for the carriage of passengers which have no more than 8 passenger seats (M1 hire vehicles)(regulation 6).

Regulation 7 specifies, for the purposes of the application of section 21(4) of the Act to the vehicles described in regulations 4 and 5, what should not be classified as an auxiliary aid or service. Regulation 8 specifies, for the purposes of the application of section 21(2) of the Act to M1 hire vehicles, those parts of the vehicles which are to be treated as physical features, and those which are not.

A Regulatory Impact Assessment in relation to these Regulations has been placed in the library of the Northern Ireland Assembly. A copy of the assessment may be obtained from: Equality, Rights and Social Need Division, Office of the First Minister and deputy First Minister, Room E3.18, Castle Buildings, Stormont, Belfast, BT4 3SR.

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