

# EQUALITY ACT 2010

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### **Part 12: Disabled Persons: Transport**

##### *Chapter 1: Taxis, etc.*

##### *Section 160: Taxi accessibility regulations*

#### **Effect**

522. This section contains a power for the Secretary of State to make regulations (in relation to England and Wales) specifying the technical standards applying to licensed taxis and imposing requirements on taxi drivers, to enable disabled people to access taxis safely, even when seated in a wheelchair, and to be carried in safety and reasonable comfort. It makes it an offence, punishable by a fine of (currently) up to £1,000, for a driver of a regulated taxi to fail to comply with the requirements of the regulations.

#### **Background**

523. This section replicates provisions the effect of conditions in section 32 of the Disability Discrimination Act 1995.
524. These conditions do not apply to taxis which are drawn by horses or other animals.

#### **Examples**

- It is an offence for a taxi driver not to comply with a requirement to have a ramp or other device to enable a disabled person in a wheelchair to access the taxi in safety.
- It is an offence for a taxi driver not to comply with a requirement to ensure the correct position of a wheelchair in the taxi so as to ensure the disabled person can travel in safety.

##### *Section 161: Control of numbers of licensed taxis: exception*

#### **Effect**

525. A licensing authority (in England or Wales) cannot refuse to license a wheelchair-accessible vehicle on the grounds of controlling taxi numbers, if the proportion of wheelchair-accessible vehicles operating in the area is smaller than the proportion prescribed in regulations by the Secretary of State.

#### **Background**

526. This is a new provision. Section 16 of the Transport Act 1985 permits licensing authorities to control the number of taxis operating in their areas by refusing licences, if satisfied that there is no unmet demand for taxis in the area.

527. **Section 161** is intended to ensure that licensing authorities in England or Wales with few, or even no, wheelchair-accessible taxis operating in their areas cannot refuse licences to wheelchair-accessible vehicles on the grounds of controlling taxi numbers.

### **Examples**

- Owing to a large number of taxis operating in the area, a licensing authority has decided not to license any more taxis. However, of the licensed taxis, only a few are wheelchair-accessible. The owner of a wheelchair-accessible vehicle applies for a taxi licence. Since the proportion of wheelchair-accessible vehicles in the area is below the level prescribed by the Secretary of State, the licensing authority cannot refuse to issue a taxi licence for the vehicle for the purposes of controlling taxi numbers.
- Another owner of a wheelchair-accessible vehicle also applies for a taxi licence at the same licensing authority. However, the vehicle does not meet the licensing authority's other requirements, as it is too old. The licensing authority is therefore able to refuse the licence on the grounds that the vehicle is too old.

### **Section 162: Designated transport facilities**

#### **Effect**

528. This section enables the Secretary of State in England and Wales, or Scottish Ministers in Scotland, to make regulations applying taxi provisions contained in or made under Chapter 1 of Part 12 of the Act or under section 20(2A) of the Civic Government (Scotland) Act 1982 to private hire vehicles used in the provision of services under a franchise agreement.

#### **Background**

529. This section replicates similar provisions in section 33 of the Disability Discrimination Act 1995.
530. Franchise agreements exist between operators of transport facilities (premises which form part of railway stations, airports, ports and bus stations) and operators of private hire cars, in order to provide services to members of the public so that they can travel from, for example, the mainline station to their destination. This section allows requirements to be placed on vehicles used under a franchise agreement and their drivers to ensure accessibility for disabled people.

#### **Example**

- Regulations could require that the vehicles entering, and for use in, an airport to fulfil the terms of a franchise agreement must be accessible to wheelchair users.

### **Section 163: Taxi licence conditional on compliance with taxi accessibility regulations**

#### **Effect**

531. This section prevents a licensing authority from granting a licence for a taxi to ply for hire unless the vehicle complies with the regulations made under section 160, so as to ensure that licensed taxis in use are accessible by disabled passengers. The provisions do not apply if a licence has been in force in respect of the taxi in the preceding 28 days, so that existing vehicles can continue to be used even if they do not meet the accessibility requirements.

## **Background**

532. This section replicates similar provisions in section 34 of the Disability Discrimination Act 1995.

## **Examples**

- Someone making an application for a taxi licence will need to ensure the taxi will be accessible by disabled people.
- A driver renewing the licence for a taxi will not need to show that the vehicle meets the accessibility requirements as long as it was licensed in the 28 days preceding the grant of the new licence.

## ***Section 164: Exemption from taxi accessibility regulations***

### **Effect**

533. This section contains a power for the Secretary of State to make regulations allowing a licensing authority to apply for an order exempting it from the requirements of section 163 if it has undertaken a consultation, published the outcome and taken into account any representations. A licensing authority may only apply for an exemption order if applying section 163 would reduce the number of taxis in the area to an unacceptable level.
534. The Secretary of State may grant or refuse such an order but, before deciding whether or not to do so, is required to consult the Disabled Persons Transport Advisory Committee and any other appropriate persons. In granting an exemption order, the Secretary of State may impose certain conditions. Where exemption is given from the full accessibility requirements, taxis may instead be required to be fitted with swivel seats and to conform to any safety conditions when such seats are in use.

## **Background**

535. This section replicates provisions in section 35 of the Disability Discrimination Act 1995.

## **Example**

- A particular licensing authority can apply for an exemption order if it considers that requiring all taxis to comply with the accessibility requirements would mean that licensed taxi drivers in the area would transfer from being hackney carriage drivers to private hire vehicle drivers, because the cost of purchasing accessible taxis would make their business unprofitable. The Secretary of State can agree to make an exemption order but, in doing so, can require a certain number of accessible taxis to be available in the area.

## ***Section 165: Passengers in wheelchairs***

### **Effect**

536. This section places duties on drivers of designated taxis and private hire vehicles to carry a disabled passenger while in a wheelchair; to not make an additional charge; if the passenger chooses to sit in a passenger seat, to carry the passenger's wheelchair; to carry the passenger in safety and in reasonable comfort; and to provide reasonable assistance to enable the passenger to use the taxi. A taxi or private hire vehicle is designated if it appears on a list maintained by the local licensing authority under section 167.
537. A driver of a designated taxi or private hire vehicle who refuses to carry a wheelchair user commits an offence punishable by a fine of (currently) up to £1,000.

## **Background**

538. This section has its basis in section 36 (as amended by the Local Transport Act 2008) of the Disability Discrimination Act 1995. The previous legislation applied the provisions of this section to regulated taxis. The provisions in this section now apply just to the drivers of designated, rather than regulated, taxis and private hire vehicles. Further explanation of provisions regarding the designation of wheelchair accessible vehicles is provided in the notes on section 167.

## **Examples**

- A person in a wheelchair hires a wheelchair-accessible taxi or private hire vehicle. The driver must help the passenger into and out of the vehicle by using a ramp or lift and helping the passenger onto the lift or up the ramp. The driver must ensure the wheelchair is correctly positioned in the vehicle and secured so that the passenger travels safely and in reasonable comfort.
- If a passenger in a wheelchair wishes to travel in a passenger seat, the driver must assist the passenger into and out of the vehicle and transport the wheelchair.
- A driver must load a disabled passenger's luggage into and out of the taxi.
- A driver cannot charge a person in a wheelchair more than any other passenger.

### ***Section 166: Passengers in wheelchairs: exemption certificates***

#### **Effect**

539. The Secretary of State may make regulations which allow a licensing authority to exempt a driver from the duties contained in section 165 if it is satisfied that the driver cannot provide assistance due to a medical or physical condition.
540. The exemption certificate must be displayed in the vehicle.

## **Background**

541. This section has its basis in section 36 of the Disability Discrimination Act 1995, but it extends further, as described in relation to section 165 above.

## **Example**

- A driver is not required to provide physical assistance to help a passenger in a wheelchair into and out of a vehicle if he is medically unfit to do so.

### ***Section 167: Lists of wheelchair-accessible vehicles***

#### **Effect**

542. This section permits a licensing authority to maintain a list of wheelchair-accessible taxis and private hire vehicles operating in its area. If it so wishes, a licensing authority may decide to list just those vehicles that also hold a special licence to operate a local bus service, and not list wheelchair-accessible vehicles that hold only a conventional licence.
543. The duties contained in section 165 will apply to drivers of the vehicles that appear on the list of designated wheelchair-accessible vehicles.
544. The section permits the Secretary of State to issue guidance to licensing authorities and the licensing authority must have regard to any guidance issued.

## **Background**

545. This section has its basis in section 36A of the Disability Discrimination Act 1995, which allowed licensing authorities to maintain lists of wheelchair-accessible vehicles with special licences to operate a local bus service. However, provisions in this section now extend further to allow licensing authorities to also include wheelchair-accessible vehicles that hold only conventional licences.

## **Examples**

- A licensing authority maintains a list of the wheelchair-accessible taxis and private hire vehicles operating in its area. The drivers of the vehicles on that list are required to perform the duties to assist passengers in wheelchairs contained in section 165.
- The driver of a vehicle that is included on the list will provide assistance to passengers in wheelchairs and will not charge them an additional fare.

## ***Section 168: Assistance dogs in taxis***

### **Effect**

546. This section places duties on drivers of taxis in England and Wales to transport a disabled person's assistance dog, for example, a blind person's guide dog, and allow it to stay with the passenger without making any additional charge. Under section 20 of the Civic Government (Scotland) Act 1982, regulations may make provision corresponding to sections 168 and 169 for Scotland.
547. A driver of a taxi who refuses to carry an assistance dog commits an offence that is punishable by a fine of (currently) up to £1,000.

## **Background**

548. This section replicates the main provision contained in section 37 of the Disability Discrimination Act 1995.

## **Example**

- A person with an assistance dog hails a taxi. The driver must not refuse to transport the assistance dog and must let it accompany the passenger in the taxi.

## ***Section 169: Assistance dogs in taxis: exemption certificates***

### **Effect**

549. This section permits a licensing authority in England and Wales to exempt a driver of a taxi from the duties contained in section 168 if it is satisfied that the driver cannot carry an assistance dog on medical grounds, or that the vehicle is not suitable for the carriage of assistance dogs.
550. The exemption certificate must be displayed on the taxi.

## **Background**

551. This section is designed to replicate the exemption provision that was contained in section 37 of the Disability Discrimination Act 1995. However the definition of "licensing authority" in relation to London now means "Transport for London" as it is this body that exercises functions relating to taxi licensing.

### **Example**

- A driver who has a medically certified allergy to dogs is not required to carry an assistance dog, as long as she displays an exemption certificate on her taxi.

### ***Section 170: Assistance dogs in private hire vehicles***

#### **Effect**

552. This section places duties on operators and drivers of private hire vehicles in England and Wales to transport a disabled person's assistance dog and allow it to stay with the passenger without making any additional charge. Under section 20 of the Civic Government (Scotland) Act 1982, regulations may make provision corresponding to section 170 for Scotland.
553. An operator or driver of a private hire vehicle who refuses to carry an assistance dog commits an offence that is punishable by a fine of (currently) up to £1,000.

#### **Background**

554. This section replicates the main provision contained in section 37A of the Disability Discrimination Act 1995.

#### **Examples**

- A driver of a private hire vehicle cannot impose an additional charge for carrying an assistance dog.
- An operator of a fleet of private hire vehicles accepts a booking from a passenger with an assistance dog. The driver cannot refuse to carry the assistance dog.

### ***Section 171: Assistance dogs in private hire vehicles: exemption certificates***

#### **Effect**

555. This section permits a licensing authority in England and Wales to exempt a driver of a private hire vehicle from the duties contained in section 170 if it is satisfied that the driver cannot carry an assistance dog because of a medical condition, or that the vehicle is not suitable for the carriage of assistance dogs.
556. The exemption certificate must be displayed on the private hire vehicle.

#### **Background**

557. This section is designed to replicate the exemption provision that was contained in section 37A of the Disability Discrimination Act 1995.

#### **Example**

- A driver is not required to carry an assistance dog if he has a medically certified allergy to dogs and displays his exemption certificate in his vehicle.

### ***Section 172: Appeals***

#### **Effect**

558. In England and Wales, if a taxi or a private hire vehicle driver is refused a certificate exempting him or her from the requirements to assist disabled passengers in wheelchairs or to carry assistance dogs, this section gives a right of appeal to a magistrates' court, within 28 days of being refused.

559. In Scotland, if a taxi or private hire vehicle driver is refused a certificate exempting him or her from the requirements to assist disabled passengers in wheelchairs, this section gives a right to appeal to the sheriff, within 28 days of being refused.
560. The owner of a taxi or private hire vehicle may appeal, to the magistrates' court in England and Wales, or the sheriff in Scotland, against a licensing authority's decision to include his or her vehicle on a designated list of wheelchair-accessible vehicles held by the licensing authority under section 167.

## **Background**

561. [Section 172](#) is designed to replicate the provisions of section 38 of the Disability Discrimination Act 1995. However this section also reflects the extension of provisions in section 167 to drivers of designated taxis and private hire vehicles when not providing a local bus service (i.e. when providing a conventional service).

## **Examples**

- A taxi driver applies for a certificate exempting him from the requirement to assist disabled passengers in wheelchairs because he has a bad back. His application is refused by the licensing authority but the driver believes insufficient consideration was given to the medical information supporting his application, so he lodges an appeal within 28 days of the decision. The appeal is successful and the court directs the licensing authority to issue an exemption certificate to the driver.
- A licensing authority lists a taxi or private hire vehicle as being accessible for passengers in wheelchairs, meaning the driver is required to assist disabled passengers in wheelchairs. The owner of the vehicle, who considers that it is not accessible, can appeal the decision to be listed.

## **[Section 173: Interpretation](#)**

### **Effect**

562. This section explains the meaning of the terms, "accessibility requirements", "assistance dog", "taxi" and "taxi accessibility regulations".