

Equality Act 2010 – Taxis and Private Hire Vehicles

Provisions coming into effect in October 2010

Introduction

The Equality Act 2010 brings together in one Act a number of different pieces of legislation about discrimination, - including disability discrimination. The new Act includes many of the taxi and private hire vehicle (PHV) provisions which were in the Disability Discrimination Act 1995, but it also includes some important changes.

Sections 160 to 173 of the Equality Act 2010 relate specifically to taxis and private hire vehicles (PHVs).

The Equality Act 2010 can be viewed at http://www.opsi.gov.uk/acts/acts2010/ukpga_20100015_en_1

Some of the taxi/PHV provisions are being brought into force on 1st October 2010.

This guidance note explains which taxi/PHV sections are being brought into force on that date and is designed for licensing authorities.

A separate guidance note has been prepared specifically for the taxi and PHV trades.

Duties to assist passengers in wheelchairs.

Sections 165, 166 and 167 of the Equality Act 2010 deal with the imposition of duties on the drivers of wheelchair accessible taxis and PHVs to assist passengers who use wheelchairs.

The duties which had been contained in the Disability Discrimination Act 1995 had never been brought into force so when the duties are actually brought into force – at a later date, but not before April 2011 - it will constitute a substantive change in the law.

The duties - Section 165 places duties on drivers of designated wheelchair accessible taxis and PHVs. Designated vehicles are those listed by the licensing authority under section 167 (see 'Lists of wheelchair accessible vehicles', below).

The duties are:

- to carry the passenger while in the wheelchair;
- not to make any additional charge for doing so;

- if the passenger chooses to sit in a passenger seat to carry the wheelchair;
- to take such steps as are necessary to ensure that the passenger is carried in safety and reasonable comfort; and
- to give the passenger such mobility assistance as is reasonably required.

This section will be commenced at a later date, but not before April 2011.

Exemptions from the duties - Section 166 allows licensing authorities to exempt drivers from the duties to assist passengers in wheelchairs if they are satisfied that it is appropriate to do so on medical grounds or because the driver's physical condition makes it impossible or unreasonably difficult for him or her to comply with the duties.

This section will be commenced on 1 October 2010.

Consequently, from October, taxi and PHV drivers who drive designated wheelchair accessible taxis or PHVs will be able to apply for exemptions. Licensing authorities that intend to maintain a list of wheelchair accessible taxis and PHVs licensed in their area should therefore be putting in place a system for assessing drivers and a system for granting exemption certificates for those drivers who they consider should be exempt.

The Department will be making regulations early in 2011 specifying the exact format for the Exemption Notices that licensing authorities will issue and exempt drivers will be required to display in their vehicles. The Department will also arrange for the printing and distribution of the Exemption Notices (which will be similar to the Notices for drivers who are exempt from carrying guide dogs). These will be ready shortly after the regulations come into force early in 2011.

Lists of wheelchair accessible vehicles – Section 167 allows licensing authorities to maintain a list of “designated vehicles”, that is, a list of wheelchair accessible taxis and PHVs licensed in their area. The consequence of being on this list is that the driver must undertake the duties in section 165.

This section will be commenced at a later date (not before April 2011).

So, although the list of designated vehicles will have no actual effect in law until the duties are commenced, we would urge licensing authorities to start maintaining a list as soon as possible for the purpose of liaising with the trade and issuing exemption certificates.

Also, from October, it will be possible for drivers to appeal against a decision by the licensing authority not to grant an exemption; the appeal will go to the magistrates' court.

When section 167 comes into force, and the lists of designated vehicles have a statutory effect, it will be possible for the owner of a vehicle to appeal against a licensing authority's decision to include his or her vehicle on the list. This appeal will also go to the magistrates' court.

Separate, and more detailed, guidance will be issued about the accessibility requirements which licensing authorities should apply in relation to this provision and other aspects of their functions under this new approach. This guidance will be issued in the autumn.

Guide Dogs and Assistance Dogs

Sections 168 to 171 of the Equality Act 2010 deal with the carriage of guide dogs and other assistance dogs and England and Wales.

These sections have simply been lifted from the Disability Discrimination Act 1995 which imposed duties on taxi and PHV drivers (and PHV operators) to accept guide dogs.

When these sections come into force on 1 October, the existing sections in the Disability Discrimination Act 1995 will be repealed.

So, the change is largely a technical one rather than one with any practical implications.

There is nothing new and nothing additional that drivers (and PHV operators) need to do in relation to assistance dogs. The existing obligations will carry on after 1 October but simply under different legislation.

However, there is one important point to note. The legislation bringing these sections of the Equality Act into force on 1 October is designed to ensure a smooth transition from the assistance dogs provisions in the Disability Discrimination Act 1995 to those contained in the Equality Act 2010.

The legislation will ensure that:

- The Exemption Notice Regulations¹ made under sections 37 and 37A of the Disability Discrimination Act 1995 will continue to have effect – as though they had been made under the Equality Act 2010;
- Taxi and PHV drivers who are already exempt from the duty to carry guide dogs can continue to rely on their certificate of exemption issued by a licensing authority even though the certificate refers to the Disability Discrimination Act 1995;

¹ The Disability Discrimination Act 1995 (Taxis)(Carrying of Guide Dogs etc.)(England and Wales) Regulations 2000 (SI2000/2990) (as amended) and The Disability Discrimination Act 2003 (Private Hire Vehicles)(Carriage of Guide Dogs etc)(England and Wales)Regulations 2003 (SI 2003/3122) (as amended).

- Licensing authorities will continue to be able to issue certificates to drivers who are exempt from the duty to carry guide dogs even though the certificates say “issued under section 37 or 37A of the Disability Discrimination Act 1995” on them. The certificates are now deemed to have been issued under the Equality Act 2010;
- Licensing authorities will continue to be able to issue the yellow Exemption Notices provided by the Department which exempt drivers must display on their vehicles (and exempt drivers will continue to be able to display them), even though the Notices refer to the Disability Discrimination Act 1995.

The comprehensive guidance issued by the Department in 2007 about the duties to carry assistance dogs and the procedure for granting medical exemptions etc still stands. This is because there has been no substantive change in the actual duties or the assessment of applicants for medical exemptions. The Guidance can be viewed at:
<http://www.dft.gov.uk/adobepdf/259428/323526/19560LicensingAuthorities321.pdf>

The position in relation to the carriage of assistance dogs in Scotland also remains the same, but the means of achieving this is different. Essentially although the relevant sections of the Disability Discrimination Act 1995 will be repealed, the legislation which brings the Equality Act into force will ensure that the provisions inserted into section 20 of the Civic Government (Scotland) Act 1982 remain.

The control of taxi numbers

Since the Transport Act 1985 it has been possible for licensing authorities in England and Wales (outside of London) to refuse a taxi licence application if they are satisfied that there is no significant unmet demand for taxis in their licensing area.

Section 161 of the Equality Act 2010 qualifies the law in this area, to ensure licensing authorities that have relatively few wheelchair accessible taxis operating in their area, do not refuse licences to such vehicles for the purposes of controlling taxi numbers.

For section 161 to have effect, the Secretary of State must make regulations specifying:

- the proportion of wheelchair accessible taxis that must operate in an area before the respective licensing authority is lawfully able to refuse to license such a vehicle on the grounds of controlling taxi numbers; and
- the dimensions of a wheelchair that a wheelchair accessible vehicle must be capable of carrying in order for it to fall within this provision.

The DfT plans to consult on the content of regulations before section 161 comes in to force; the actual date will be announced in due course, but it will not be before April 2011.