

# EQUALITY ACT 2010

---

## 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".

## ***Chapter 2: Public service vehicles***

### ***Section 174: PSV accessibility regulations***

### **Effect**

563. This section enables the Secretary of State to make public service vehicle accessibility regulations specifying the technical standards applying to buses and coaches, to provide greater accessibility to disabled passengers including when seated in a wheelchair. The requirements can relate to the construction, use and maintenance of the vehicle, to the design and carriage of equipment, and to wheelchair restraints and wheelchair position.

## **Background**

564. This section replicates the provisions of section 40 of the Disability Discrimination Act 1995.

## **Example**

- Buses and coaches must meet certain technical standards in respect of equipment and design to ensure accessibility by disabled passengers. If accessibility features, such as handrails or other aids, were present when the vehicle was approved but have subsequently been removed, the bus must not be used on the road.



### ***Section 175: Offence of contravening PSV accessibility regulations***

#### **Effect**

565. This section makes it an offence to fail to comply with the requirements of the regulations or to use or allow to be used on the road a public service vehicle which does not meet the requirements of the regulations. If an offence is found to have been committed by or with the consent of a responsible person, such as a director, manager or company secretary, that individual, as well as the company, is guilty of the offence.
566. The offence is punishable by a fine of (currently up) to £2,500.

#### **Background**

567. This section replicates the offence provisions of section 40 of the Disability Discrimination Act 1995.

#### **Example**

- A bus has an accessibility feature removed and is subsequently used on a registered service. By using, or permitting the vehicle to be used in this condition, an offence is committed and may lead to the driver and the operator being convicted of the offence and a fine of up to £2,500 being imposed.

### ***Section 176: Accessibility certificates***

#### **Effect**

568. This section requires a regulated public service vehicle to have an accessibility certificate to demonstrate that it meets the requirements of the public service vehicle accessibility regulations (see section 174), or an approval certificate (see section 177), before it can be used on a road. It also allows the Secretary of State to make regulations relating to applications and the issue (or copies) of accessibility certificates and providing for vehicle examinations.

#### **Background**

569. This section replicates the provisions contained in section 41 of the Disability Discrimination Act 1995.

#### **Example**

- A bus must have an accessibility certificate showing that it conforms to requirements about accessibility features, for example, ramps, handrails and wheelchair spaces. The certificate shows that the bus meets the minimum acceptable standard to enable disabled passengers to get on and off it and be carried on it in reasonable safety and comfort.

### ***Section 177: Approval certificates***

#### **Effect**

570. This section allows the Secretary of State to approve a public service vehicle as a “type vehicle” if the relevant technical requirements are met, and the issue of an approval certificate if a particular vehicle conforms with a “type vehicle”. This allows a design of vehicle to be approved as meeting the technical and accessibility requirements. It also contains a power for the Secretary of State to make regulations relating to applications and the issue (or copies) of approval certificates and providing for vehicle examinations.
571. The Secretary of State can withdraw approval for a “type vehicle” at any time. When this happens, no further approval certificates may be issued. The certificates issued prior to withdrawal remain valid.



## **Background**

572. This section replicates the provisions contained in section 42 of the Disability Discrimination Act 1995.

## **Example**

- A particular bus manufacturer's chassis in combination with a body is approved as a "type vehicle", and approval certificates are issued in respect of buses conforming to this design. Modifications are subsequently made to the "type vehicle" which mean that it no longer meets the technical requirements, so its approval as a "type vehicle" is withdrawn and no approval certificates will be issued in respect of buses conforming to the modified design.

## ***Section 178: Special authorisations***

### **Effect**

573. This section contains a power for the Secretary of State to authorise the use of a public service vehicle in certain circumstances where such a vehicle may not meet the requirements of regulations under section 174. It also allows restrictions or conditions to be placed on the use of such vehicles.

## **Background**

574. This section replicates the provisions contained in section 43 of the Disability Discrimination Act 1995.

## **Example**

- A new design of vehicle, which does not conform to the current accessibility regulations, is to be trialled. The Secretary of State makes an order allowing the use of the vehicle in a restricted environment, specifying the permitted areas and times of operation, so that its performance can be tested.

## ***Section 179: Reviews and appeals***

### **Effect**

575. If the Secretary of State refuses to approve a vehicle as a "type vehicle", this section allows the applicant to ask the Secretary of State to review of the decision on payment of a fee. It also gives a right of appeal to the Secretary of State against any refusal to issue an accessibility or approval certificate. It also allows the Secretary of State to set out the appeals procedure in regulations.

## **Background**

576. This section replicates the provisions contained in section 44 of the Disability Discrimination Act 1995.

## **Example**

- A vehicle manufacturer is refused approval of a new bus design as a "type vehicle". The manufacturer asks the Secretary of State to review the decision and pays the required fee. The Secretary of State must review the decision and any supporting written evidence or representations, and can confirm, vary or reverse the original decision.

### ***Section 180: Fees***

#### **Effect**

577. This section contains a power for the Secretary of State make fees regulations and to charge fees in accordance with them for processing applications for approval as a “type vehicle”, processing accessibility and approval certificates, issuing duplicate certificates and conducting reviews and appeals. Fees are not likely to be greater than the amount needed to cover costs. The section allows provision for repaying fees in whole or part in certain circumstances, for example, on a successful appeal.

#### **Background**

578. This section replicates the provisions contained in section 45 of the Disability Discrimination Act 1995.

#### **Example**

- An applicant may have to pay a fee for accessibility and approval certificates for a public service vehicle, to cover the cost of dealing with the application and inspection process.

### ***Section 181: Interpretation***

#### **Effect**

579. This section explains the meaning of the terms, “accessibility certificate”, “approval certificate”, “PSV accessibility regulations” and “regulated public service vehicle”.

### ***Chapter 3: Rail vehicles***

### ***Section 182: Rail vehicle accessibility regulations***

#### **Effect**

580. This section includes powers for the Secretary of State to make regulations to ensure that trains, trams and certain other guided transport systems are accessible to disabled people including wheelchair users.
581. However, due to the limited definition of “rail vehicle” used in this section, its scope is restricted to rail vehicles which do not operate on the “interoperable rail system”. Regulations made under this section could therefore only be applicable for the most part to light rail vehicles (those used on metro, underground and tram systems and prescribed modes of guided transport).
582. All rail vehicles must comply with accessibility standards, or have an appropriate exemption in place, by no later than 1 January 2020.
583. Before making any regulations under this section, the Secretary of State must first consult the Disabled Persons Transport Advisory Committee and other representative organisations.

#### **Background**

584. This section replicates the provisions of section 46 of the Disability Discrimination Act 1995 as amended by the Disability Discrimination Act 2005.

#### **Example**

- All new rail vehicles introduced on metro, underground or tram systems, or prescribed modes of guided transport, will need to be fully accessible or seek an exemption (under section 183) if there are compelling circumstances which mean they cannot comply.

### ***Section 183: Exemptions from rail vehicle accessibility regulations***

#### **Effect**

585. This section contains a power for the Secretary of State to make orders (“exemption orders”) authorising a regulated rail vehicle to be used in passenger service even though it does not comply with accessibility standards, or the way it is to be used would not comply with such standards.
586. It provides for regulations to specify who may apply for an exemption order, what information needs to be supplied, how the exemption regime will operate, how long an exemption order can apply and measures for revocation. This list is not exhaustive.
587. Before granting an exemption order, the Secretary of State must first consult the Disabled Persons Transport Advisory Committee and such other persons as considered appropriate.

#### **Background**

588. This section replicates the provisions of section 47 of the Disability Discrimination Act 1995 as amended by the Disability Discrimination Act 2005.

#### **Example**

- The exemption power can be used to exempt a specified rail vehicle, or a rail vehicle of a specified description or the use of such a vehicle in specified circumstances. So, for example, all the vehicles used on a particular network (such as a heritage or tourist railway or tramway) could be exempted.

### ***Section 184: Procedure for making exemption orders***

#### **Effect**

589. This section provides that exemption orders made under section 183 may, at the discretion of the Secretary of State, be subject to either the draft affirmative resolution or the negative resolution procedure. It sets out the procedure for the exercise of this discretion and enables regulations to be made setting out the criteria under which a decision will be made.
590. The Secretary of State is required to consult the Disabled Persons Transport Advisory Committee, and other appropriate persons, before making such regulations, which are themselves subject to the draft affirmative resolution procedure.

#### **Background**

591. This section replicates sections 67(5A) and 67A of the Disability Discrimination Act 1995 as inserted by the Disability Discrimination Act 2005.

### ***Section 185: Annual report on exemption orders***

#### **Effect**

592. This section requires the Secretary of State to produce an annual report (“the report”) on the use of powers to exempt regulated rail vehicles from accessibility requirements. The report will be produced for each calendar year and must contain details of all exemption orders made under section 183. It must also contain information about the consultation on both applications for exemption orders and the exercise of discretion under section 184. The report must be laid before both Houses of Parliament.

## **Background**

593. This section replicates the provisions of section 67B of the Disability Discrimination Act 1995 as inserted by the Disability Discrimination Act 2005.

## ***Section 186: Rail vehicle accessibility: compliance***

### **Effect**

594. This section relates to the provisions of Schedule 20 which contain powers to introduce compliance certification and a civil enforcement regime with associated penalties.
595. Commencement of subsection (1) would bring Schedule 20 into effect. However, subsection (2) provides that, if not commenced (either fully or to any extent) before the end of 2010, this section and Schedule 20 would be automatically repealed.

## **Background**

596. [Schedule 20](#) replicates the provisions of the Disability Discrimination Act 1995 sections 47A to 47M as inserted by the Disability Discrimination Act 2005 (but not yet in force). More detail on the reasons why this section has been included in the Act can be found in paragraphs 923-965

## ***Section 187: Interpretation***

### **Effect**

597. This section includes cross references to explanations of what is meant by the terms “rail vehicle”, “regulated rail vehicle” and “rail vehicle accessibility regulations” used throughout this Chapter of the Act. It also explains what is meant by use “for carriage”.

## **Background**

598. This section replicates certain provisions of the Disability Discrimination Act 1995 as amended by the Disability Discrimination Act 2005.

## ***Chapter 4: Supplementary***

## ***Section 188: Forgery, etc.***

### **Effect**

599. This section makes it a criminal offence for a person to forge, alter, use, lend, or allow another person to use a public service vehicle accessibility certificate, public service vehicle “type” certificate or any exemption certificate issued in respect of assisting disabled passengers in taxis or carriage of assistance dogs, or to make or have in his possession a document which resembles such a certificate, with intent to deceive. It is also an offence to knowingly make a false statement in order to obtain any of these certificates.

## **Background**

600. This section replicates the effect of provisions in the Disability Discrimination Act 1995.