

From: Taxis <Taxis@dft.gsi.gov.uk>
Sent: 01 November 2016 14:01
Subject: Consultation on sections 165 and 167 of the 2010 Equality Act
Attachments: 161017 - Annex A - The Equality Act 2010 (Taxis and Private Hire Vehicles) Regulations.doc; Annex B Notice_Front (E & S).pdf; Annex C Notice_Back (E & S).pdf; Annex D Notice_Front (Wales).pdf; Annex E Notice_Back (Wales).pdf; 161017 - Annex F - Statutory guidance designated lists.doc; Annex G - List of consultees.doc

Importance: High

Dear Consultee

Equality Act 2010

1. This is an informal consultation, seeking your views on:
 - the form of, and method of displaying, the Exemption Notices which the Department intends to print and distribute to those drivers who will be exempt from the duties to assist passengers in wheelchairs; and
 - the draft guidance accompanying the commencement of the regulations of sections 165 and 167 of the Equality Act 2010
2. The deadline for comments is the **29th of November 2016**.

Background

3. The Equality Act 2010 places a duty on drivers of taxis and private hire vehicles to assist passengers in wheelchairs. This provision only applies to drivers of vehicles on designated lists held by local authorities. Before these duties are brought into force, any driver who suffers from a disability or a condition which would make it difficult for them to provide physical assistance can apply for an exemption from the duties to offer assistance. The Equality Act 2010 can be viewed at <http://www.legislation.gov.uk/ukpga/2010/15/contents>
4. The duties are as follows:

If a local licensing authority decides to maintain a list of designated vehicles (i.e. wheelchair accessible taxis and private hire vehicles) under Section 167, the following duties would be imposed on the driver:

- (a) to carry the passenger while in the wheelchair;
- (b) not to make any additional charge for doing so;
- (c) if the passenger chooses to sit in a passenger seat, to carry the wheelchair;
- (d) to take such steps as are necessary to ensure that the passenger is carried in safety and reasonable comfort;
- (e) to give the passenger such mobility assistance as is reasonably required.

Section 165(5) states that the term 'mobility assistance' means assistance

- (a) to enable the passenger to get into or out of the vehicle;
- (b) if the passenger wishes to remain in the wheelchair, to enable the passenger to get into and out of the vehicle while in the wheelchair;
- (c) to load the passenger's luggage into or out of the vehicle;
- (d) if the passenger does not wish to remain in the wheelchair, to load the wheelchair into or out of the vehicle.

5. The Equality Act contains a regulation making power which enables the Secretary of State to prescribe the form of the Exemption Notice which must be displayed in taxis and private hire vehicles and the manner in which it must be displayed.
6. The duties and exemptions, including these regulations, cover England, Wales and Scotland. Although taxi licensing legislation is devolved in Scotland, the legislation contained in the Equality Act is a reserved matter (i.e. dealt with by the Westminster Parliament). That is why the Department is making these Regulations in respect of Scotland.

The draft Regulations

7. We have prepared a set of draft regulations; they are attached at **Annex A**. They do two things:
 - (i) they say what the Exemption Notice must look like; and
 - (ii) they say how the Notice is to be displayed in the vehicles of those drivers who have been granted an exemption.
8. On (i), we have prepared two separate Notices, one for England and Scotland and another for use in Wales. Each Exemption Notice has text on the front and the back. So, in all, the four pdf attachments (**Annexes B-E**) show what we are proposing for the form of the Exemption Notices. They are based on the same format as the existing Exemption Notices for drivers who are exempt from the duty to carry an assistance dog. We considered that this was the most appropriate approach in the interests of consistency. Please bear in mind that the Notices will be the same size as the assistance dog Exemption Notices (10cm X 10cm).
9. On (ii), I would draw your attention to Regulation 2(2) which sets out how the Exemption Notice is to be displayed in the vehicle.

Guidance on Sections 165 and 167 of the Equality Act 2010

10. As part of commencing Section 167, which introduces the concept of lists of designated wheelchair accessible vehicles, the Department must issue statutory guidance. Those licensing authorities that keep a list of designated wheelchair accessible vehicles must have regard to this guidance. This is "Part Two" of the document at **Annex F** in the email.

Feedback

11. We are conducting a focussed consultation to ensure those immediately affected by the Notices are directly consulted. That is, you represent either issuing authorities, people who will display the Notices or people who will need to take note of the message they convey. The list of stakeholders is attached at **Annex G**.
12. We would like your views on whether the proposed Exemption Notices and the proposal as to how they will be displayed meet your needs.
13. The draft Regulations do not specify any colour for the Exemption Notices; we would welcome views on this. Unless your comments are of a general nature, please identify the actual Annex in making any specific comments about the text.
14. We welcome views on the draft guidance aimed at licensing authorities on sections 165 and 167. It is not intended to be prescriptive – we are open to views across the board on how to ensure the guidance is helpful for all stakeholders.
15. **Please send e-mail responses to taxis@dft.gsi.gov.uk**
16. If you wish to request this consultation in an alternative format, or would like to provide a response in paper form then please contact Tahniah Ahmed, Taxi accessibility consultation, Department for Transport, Great Minster House, 33 Horseferry Road, London, SW1P 4DR.

Freedom of Information

17. Information provided in response to this consultation, including personal information, may be subject to publication or disclosure in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004).
18. If you want information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence.

19. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.
20. The Department will process your personal data in accordance with the DPA and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

Next steps

21. We aim to bring these Regulations into force early next year. We shall take account of your feedback in doing so. The Department will be printing the Notices and distributing them to licensing authorities. We will be undertaking a separate exercise later to determine how many Notices are needed by licensing authorities.

Yours sincerely,

Tahniah Ahmed



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