

TAXIS AND PRIVATE HIRE VEHICLES (DISABLED PERSONS) BILL

EXPLANATORY NOTES

What these notes do

These Explanatory Notes relate to the Taxis and Private Hire Vehicles (Disabled Persons) Bill as introduced in the House of Commons on 1 January 2022 (Bill 30).

- These Explanatory Notes have been provided by the Department for Transport with the consent of Jeremy Wright QC MP, in order to assist the reader of the Bill and to help inform debate on it. They do not form part of the Bill and have not been endorsed by Parliament.
- These Explanatory Notes explain what each part of the Bill will mean in practice; provide background information on the development of policy; and provide additional information on how the Bill will affect existing legislation in this area.
- These Explanatory Notes might best be read alongside the Bill. They are not, and are not intended to be, a comprehensive description of the Bill.

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Overview of the Bill

- 1 The Taxis and Private Hire Vehicles (Disabled Persons) Bill (the Bill) aims to reduce discrimination against disabled people; address the barriers they face in accessing taxi/Private Hire Vehicle (PHV) services; and open opportunities through travelling by taxi or PHV; by preventing overcharging and ensuring disabled people are given appropriate assistance when travelling by taxi or PHV.
- 2 It will do this by amending the sections of the Equality Act 2010 relating to the carriage of disabled people by taxi and PHV, to address inconsistencies in the current provision and expand the protections currently afforded to wheelchair and assistance dog users to all disabled people, regardless of the vehicle they travel in. Specifically:
 - 3 Section 165 currently places duties on drivers of designated Wheelchair Accessible taxis and PHVs (WAVs) to carry a disabled passenger who uses a wheelchair and without additional charges. This excludes wheelchair users who are able to transfer into a non-WAV and fold their wheelchair from the protections and provision of mobility assistance when using a non-designated WAV taxi or PHV. It also excludes all other disabled passengers, who do not use a wheelchair, from any protection when travelling in any taxi or PHV. The Bill will address this by creating a new duty (s164A) to ensure that drivers of taxis and PHVs do not refuse carriage to a disabled person who could reasonably travel in that vehicle, with no extra charge and making every effort to ensure the disabled passenger feels comfortable and safe while travelling, amongst other related duties. Defences are included for where drivers could not reasonably have known that the passenger was disabled and/ or that the passenger required mobility assistance.
 - 4 In line with the existing s165, the new duty at s164A will not require drivers to carry more than one wheelchair on any one journey, unless their vehicle falls under a description prescribed by the Secretary of State using the delegated power provided for in the Bill.
 - 5 A new duty will also be created (s165A) for drivers to assist disabled passengers to identify and find the vehicle they have booked and without making any additional charge for doing so. This will be on the condition that the driver is made aware before the start of the journey that the passenger requires assistance to identify or find the vehicle. This is expected to be particularly helpful for visually impaired passengers and those with learning disabilities or cognitive impairments.
 - 6 The operation of exemption certificates for drivers in respect of disabled passengers will be amended, so that any such certificates exempt said drivers only from mobility assistance duties. Other duties, such as to carry the passenger and not propose additional charges, would therefore still apply to exempted drivers.
 - 7 Currently s167 provides only that Local Licencing Authorities (LLAs) may maintain a list of Wheelchair Accessible taxis and PHVs and only 70% have done so. The duties in s165 apply only to drivers of vehicles which have been designated on the relevant list under s167. This means that drivers in areas without a list have been able to continue discriminating against disabled passengers, even if the vehicle is technically wheelchair accessible. To address this, the Bill will require LLAs to maintain and publish such a list.
 - 8 Currently s168 and s170 create offences for taxi drivers, PHV operators and PHV drivers who refuse to carry, or make an additional charge for carrying, a disabled person travelling with an assistance dog. S167A creates new offences where PHV operators fail or refuse to accept a booking from a disabled person because of their disability, or charge extra for fulfilling any of the disability-related duties at sections 164A, 165 or 165A.

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Policy background

- 9 In 2019 to 2020, 14.1 million people reported having a disability, representing about 22% of the overall population in the UK¹. Of these, around 1.2m people use wheelchairs, with two thirds of them regular users². For those of State Pension age, the percentage reporting a disability has been between 44% and 46% in every year of the past decade.
- 10 Disabled people make twice as many journeys by taxi and PHV each year compared to non-disabled people³ and rely on taxis and PHVs more than most, yet we have learnt from organisations that represent disabled people that many continue to report facing discriminatory behaviour from drivers, including outright refusal of service, overcharging and a failure to provide assistance to enable them to board, alight and travel in vehicles in reasonable comfort and safety.
- 11 The Equality Act 2010 (the Act) provides disabled people with some protection, but it applies inconsistently and only with respect to certain disabilities. The government's 2018 Inclusive Transport Strategy (the "Strategy") aims to support the creation of an inclusive transport network by 2030, enabling disabled people to travel to work or at their leisure easily, confidently and without additional cost, as part of the government's broader efforts to close the 30% gap between the employment of working age disabled and non-disabled people⁴. The Strategy highlights the inconsistent application of the duties under the Act to taxi and PHV drivers as a barrier to these aims being met. The government's 2021 National Disability Strategy committed to take forward legislation to strengthen the law on the carriage of disabled people in taxis and PHVs to ensure protection from overcharging and the provision of appropriate assistance, regardless of the service they choose to use.

Current implementation

- 12 Since commencement in 2017, the duties under s165 have applied only to drivers of vehicles designated on a list of WAVs maintained by the relevant LLA, with LLAs empowered, but not required, to maintain such a list (under s167). Almost a third of LLAs are yet to begin maintaining a list of WAVs for both taxis and PHVs, meaning wheelchair users in these licensing jurisdictions have not benefitted from the protection against discrimination otherwise provided under s165. For such passengers the only legal recourse (which they would be unlikely to pursue) would be to enforce the broader duty to make "reasonable adjustments" (under section 20 of the

¹ <https://www.england.nhs.uk/wheelchair-services/>

² <https://www.gov.uk/government/statistics/family-resources-survey-financial-year-2019-to-2020/family-resources-survey-financial-year-2019-to-2020>

³ National Travel Statistics <https://www.gov.uk/government/statistical-data-sets/nts08-availability-and-distance-from-key-local-services#mobility-difficulties>

⁴ <https://www.gov.uk/government/publications/national-disability-strategy/part-1-practical-steps-now-to-improve-disabled-peoples-everyday-lives>

2010 Act) through the courts.

- 13 Since commencement in 2017, the implementation of Sections 165 to 167 of the Act has been monitored through LLAs sharing data concerning licenses issued with the Department. This data is published in the Taxi and Private Hire Vehicle Statistics: England. The current report published in 2021 shows that 79% of LLAs maintain a list of wheelchair accessible taxis in accordance with section 167 of the Equality Act 2010 (a slight increase from 72% in 2019), while 70% maintain a list of wheelchair accessible PHVs (an increase from 63% in 2019).

Legal background

- 14 The legislation relating to the carriage of disabled people in taxis and PHVs in England, Scotland and Wales is set out in the Equality Act 2010 (this replaced the Disability Discrimination Act 1995).

Territorial extent and application

- 15 As is the case for the clauses in the Equality Act 2010 which the Bill amends, the provisions in the Bill extend and apply to England and Wales and Scotland, and relate to matters which are reserved to Westminster in the case of both Scotland and Wales. In line with the Equality Act 2010 the Bill does not extend or apply to Northern Ireland.
- 16 See the table in Annex A for a summary of the position regarding territorial extent and application in the United Kingdom.

Commentary on provisions of Bill

Clause 1: Duties of drivers

- 17 This clause places duties on the driver of a taxi or PHV that has been hired to transport a disabled person who is able and wants to travel in a non-wheelchair accessible vehicle, to: carry the passenger and enable them to get in and/or out of the vehicle; load the passenger's luggage, wheelchair or mobility aids into and/or out of the vehicle; and take steps to ensure the disabled passenger feels comfortable and safe while travelling. The driver should not charge any extra for fulfilling these duties.
- 18 Should the driver of a taxi or PHV refuse to carry a wheelchair or mobility aid, an offence would be committed that is punishable by a level 3 fine of up to £1,000 and the driver would need to prove that their refusal was reasonable using the defences provided for in the Bill as follows.
- 19 The defences provided for a person charged with an offence under s164A are: to show that at the time of the offence the person could not reasonably have known that the passenger was disabled or that they required the type of mobility assistance described; or to demonstrate that at the time of the alleged offence, it would not have been possible for the wheelchair or mobility aids to be carried safely in the vehicle, or that it would not otherwise have been reasonable in all the circumstances for the wheelchair or mobility aids to be carried in the vehicle.
- 20 S165A Subsection (1) places a new duty on taxi and PHV drivers when a disabled person has made a pre-booking and hires their services, whether the disabled person travels alone or is accompanied by another person. The duty is to ensure that the disabled passenger can identify

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and find the vehicle that they have hired. This will be on the condition that the driver is made aware before the start of the journey that the passenger requires assistance to identify or find the vehicle. The driver may not introduce additional charges for providing this assistance, and failure to comply is an offence punishable by a level 3 fine of up to £1,000.

- 21 This clause also sets out definitions for “designated,” “passenger,” and “mobility assistance.”

Clause 2: Exemption certificates

- 22 This clause amends the operation of exemption certificates in section 166 of the Act. Currently, section 166 provides that a person who has been issued with an exemption certificate by a LLA is exempt in relation to all of the duties set out in section 165 (which relate to passengers in wheelchairs). This clause amends section 166 such that the exemption certificates exempt drivers only from duties to give the passenger such mobility assistance as is reasonably required under sections 164A and 165. Other duties, such as to carry the passenger and not propose additional charges, would therefore still apply to drivers who hold medical exemption certificates.

Clause 3: Lists of wheelchair-accessible vehicles

- 23 This clause requires all LLAs to maintain a list of licensed wheelchair accessible vehicles, and to make this publicly available. The Department for Transport will publish guidance for LLAs, including setting out how the lists should be made publicly available and how often they should be updated.

Clause 4: Duties of operators of private hire vehicles

- 24 This clause creates a new offence for PHV operators who fail or refuse to accept a booking requested by or on behalf of a disabled person, when the reason for failing or refusing to accept a booking is that the passenger has a disability or to prevent the PHV driver being made subject to a relevant duty.
- 25 This clause also creates a new offence for PHV operators who make, or propose to make, an additional charge for the carrying out of any duty imposed on the driver of the PHV under section 164A, 165 or 165A. This offence would be punishable by a level 3 fine of up to £1,000. There is a defence should the person charged with such an offence provides evidence that it was reasonable not to have accepted the booking due to a lack of suitable vehicles.

Clause 5: Minor and consequential amendments

- 26 This clause makes minor amendments in relation to extending certain duties to not make additional charges to also not propose to make such charges. Other minor and consequential amendments are made in relation to certain definitions and cross-referencing to the numbering of sections.

Clause 6: Extent, commencement and short title

- 27 This clause sets out the territorial extent, commencement and short title of the Bill.

Commencement

- 28 This Bill comes into force at the end of the period of two months beginning with the day on which it is passed.

Financial implications of the Bill

- 29 The financial implications of the Bill are the administrative burden on LLAs and the time required for taxi and PHV drivers to familiarise themselves with the changes in legislation. We

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expect both of these to be minimal.

- 30 Around 30% of LLAs do not currently maintain a list of WAV taxis and PHVs and will need to set one up. It is our expectation that all LLAs would already have data available on whether vehicles are wheelchair accessible or not, as they already provide this data to the Department for Transport on an annual basis. All LLAs, whether or not they previously maintained a list, will be required to publish it. LLAs may recover any such costs imposed on them through taxi and PHV driver licence fees where they have statutory powers to do so.
- 31 There will be low costs as a result of existing taxi and PHV drivers familiarising themselves with the proposed changes to the Equality Act 2010. The cost of familiarisation applies only to existing drivers in the year of legislative change, 2022, as a one-off transition cost which we estimate as being equivalent to 0.5 hours.

Parliamentary approval for financial costs or for charges imposed

- 32 We do not expect the Bill to require a money resolution or a ways and means resolution.

Compatibility with the European Convention on Human Rights

- 33 No statement of compatibility is required, as the Bill is a Private Members' Bill. However, we consider that the provisions of the Bill are compatible with the Convention rights.

Annex- Territorial extent and application in the United Kingdom

Provision	Extends to E & W and applies to England?	Extends to E & W and applies to Wales?	Extends and applies to Scotland?	Extends and applies to Northern Ireland?	Would corresponding provision be within the competence of the National Assembly for Wales?	Would corresponding provision be within the competence of the Scottish Parliament?	Would corresponding provision be within the competence of the Northern Ireland Assembly?	Legislative Consent Motion sought?
Clause 1	Yes	Yes	Yes	No	No	No	Yes	No
Clause 2	Yes	Yes	Yes	No	No	No	Yes	No
Clause 3	Yes	Yes	Yes	No	No	No	Yes	No
Clause 4	Yes	Yes	Yes	No	No	No	Yes	No
Clause 5	Yes	Yes	Yes	No	No	No	Yes	No
Clause 6	Yes	Yes	Yes	No	No	No	Yes	No

Subject matter and legislative competence of devolved legislatures

The subject matter of the Bill is reserved to Westminster, except in the case of Northern Ireland where it is a devolved responsibility.

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