

EQUALITY ACT 2010 (AMENDMENT) (DISABLED ACCESS) BILL [HL]

EXPLANATORY NOTES

What these notes do

These Explanatory Notes relate to the Equality Act 2010 (Amendment) (Disabled Access) Bill [HL] as introduced in the House of Lords on 27 June 2017 (HL Bill 9).

- These Explanatory Notes have been prepared by Lord Blencathra 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; and provide background information on the policy and 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. So where a provision of the Bill does not seem to require any explanation or comment, the Notes simply say in relation to it that the provision is self-explanatory.

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Overview of the Bill

- 1 This Bill seeks to amend section 20 of the Equality Act of 2010 (the "2010 Act") to impose a duty on owners or occupiers of public buildings which have a single entrance step up to 6 or 12 inches in height to replace those steps with a ramp suitable for wheelchair users to gain access.
- 2 The Bill does not seek to remove or alter the general principle of the 2010 Act relating to the duty to provide reasonable adjustments for those with protected characteristics nor does it try to specify what is to be regarded as "reasonable" in other circumstances.

Policy background

- 3 The current figures from NHS England estimate that there are around 1.2 million wheelchair users in the UK, with about 800,000 of those wheelchair users being classed as regular wheelchair users.¹
- 4 Wheelchair users find it difficult to access buildings if required to manoeuvre over steps. This is largely because most wheelchairs have small wheels at the front, about one third the size of car wheels. Even if a wheelchair user is able to get their front wheels over a step of less than two inches (for example), most wheelchairs also have anti-tip devices at the rear which activate and ground the chair if the front and back wheels are not level.
- 5 In 2014, Disabled Go conducted a study for the Department for Work and Pensions which found that 20% of the 30,000 high street shops surveyed were not able to provide access for wheelchair users because of the incidence of steps and the lack of provision of ramps.²
- 6 In 2015, the House of Lords appointed a Select Committee to undertake post-legislative scrutiny of the 2010 Act in relation to disabilities (the Equality Act 2010 and Disability Committee). The Committee reported on 24 March 2016. This report discussed the challenges facing disabled people in enforcing the provisions of the 2010 Act, including in relation to access for wheelchair users.³
- 7 Earlier versions of this Bill were previously introduced by Lord Blencathra in the 2013-14, 2014-15 and 2015-16 sessions of the previous Parliaments.⁴

Legal background

- 8 Section 4 of the 2010 Act lists certain characteristics, including disabilities, as "protected characteristics" and makes it an offence to discriminate against any person with those

¹ <https://www.england.nhs.uk/ourwork/pe/wheelchair-services/> These figures were first estimated by Patsy Aldersea of the Royal College of Occupational Therapists in 1996, who at the time estimated that there were 700,000 wheelchair users in the UK. The Audit Commission reviewed this figure in 2006 and estimated that the number of wheelchair users was between 640,000-750,000 people in the UK. See: <http://www.communityequipment.org.uk/wp-content/uploads/Fully-equipped-2000.pdf>

² <https://www.disabledgo.com/blog/2014/12/disabledgo-study-shocks-the-government-with-evidence-of-inaccessible-british-high-streets/#.Wf3oH4ZpE0g>

³ House of Lords, Select Committee on the Equality Act 2010 and Disability, The Equality Act 2010: the impact on disabled people, 1st Report of 2015-16 Session, HL Paper 117:

<https://publications.parliament.uk/pa/ld201516/ldselect/ldselect/117/117.pdf>

⁴ See: <https://services.parliament.uk/bills/2015-16/equalityact2010amendment.html>; <https://services.parliament.uk/bills/2014-15/equalityact2010amendment.html>; <https://services.parliament.uk/bills/2013-14/equalityact2010amendment.html>

characteristics. The 2010 Act also replaced all the former and separate pieces of legislation relating to discrimination on the basis of having a disability.

- 9 Section 20 of the 2010 Act imposes a duty on those interacting with persons with disabilities to make reasonable adjustments:
 - a. where a provision, criterion or practice puts a disabled person at a disadvantage (under subsection (3)); or
 - b. where a physical feature puts a disabled person at a substantial disadvantage in comparison to a non-disabled person (under subsection (4)); or
 - c. where the lack of an auxiliary aid puts a disabled person at a disadvantage (under subsection (5)).
- 10 In the case of subsection (4), the 2010 Act also places a duty on those interacting with persons with disabilities to take such steps as is reasonable to avoid the disadvantage. Section 20(9) specifies that in relation to subsection (4), avoiding a substantial disadvantage includes:
 - a. moving the physical feature in question,
 - b. altering it, or
 - c. providing a reasonable means of avoiding it.

Territorial extent and application

- 11 The provisions of the Bill have the same territorial extent and application as the 2010 Act: the relevant provisions extend and apply to England, Wales and Scotland.

Commentary on provisions of Bill

Clause 1: Amendment to the Equality Act 2010

- 12 Clause 1 of the Bill amends the 2010 Act by adding three new subsections after section 20(9).
- 13 Subsection (2) specifies that reasonable steps under section 20(4) of the 2010 Act include requiring owners or occupiers of buildings to introduce a ramp, suitable for wheelchair access, in substitution for a single access step if the single access step is less than six inches.
- 14 Subsection (3) makes similar provision in relation to a single access step if it is less than 12 inches. The commencement of subsections (2) and (3) is staggered so as to allow more time for those who have to comply with subsection (3) to make the required adjustments. Accordingly, subsection (2) is also repealed when subsection (3) is commenced.
- 15 Subsection (4) clarifies that the duties under subsections (2) and (3) do not apply to buildings with more than one access step.

Clause 2: Extent, commencement and short title

- 16 This clause is self-explanatory.

Commencement

- 17 Clause 2 would come into force on the day the Bill received Royal Assent. Subsections (1), (2) and (4) of clause 1 would come into force 12 months after the day on which the Bill received

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Royal Assent. Subsection (2) of clause 1 would be repealed, and subsection (3) of clause 1 would come into force, two years after the Bill received Royal Assent.

Financial implications of the Bill

- 18 The financial implications of this Bill have not been the subject of an impact assessment or detailed calculations. Broadly speaking, however, it is estimated that the cost of complying with the provisions of the Bill could range from £100 to £5,000 per public building which was required to make adjustments.

Related documents

19 The following documents are relevant to the Bill and can be read at the stated locations:

- NHS England, Improving wheelchair services: <https://www.england.nhs.uk/wheelchair-services/>
- Audit Commission report, *Fully equipped: the provision of equipment to older or disabled people by the NHS and social services in England and Wales*: <http://www.communityequipment.org.uk/wp-content/uploads/Fully-equipped-2000.pdf>
- Disabled Go study: <https://www.disabledgo.com/blog/2014/12/disabledgo-study-shocks-the-government-with-evidence-of-inaccessible-british-high-streets/#.Wf3oH4ZpE0p>
- House of Lords, Select Committee on the Equality Act 2010 and Disability, *The Equality Act 2010: the impact on disabled people, 1st Report of 2015-16 Session*, HL Paper 117: <https://publications.parliament.uk/pa/ld201516/ldselect/lddeqact/117/117.pdf>

Annex A – Territorial extent and application

Provision	England	Wales		Scotland		Northern Ireland	
	Extends to E & W and applies to England?	Extends to E & W and applies to Wales?	Legislative Consent Motion required?	Extends to Scotland?	Legislative Consent Motion required?	Extends to Northern Ireland?	Legislative Consent Motion required?
Clause 1	Y	Y	Y	Y	Y	N	N
Clause 2	Y	Y	N	Y	N	N	N

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