

On 7th February Andrew Jones MP, Parliamentary Under Secretary of State for Transport, signed the Commencement Order which will bring the remaining parts of Sections 165 and 167 of the Equality Act 2010 into force on the 6th April 2017.

This means that from April drivers of designated wheelchair accessible Hackney Carriage and Private Hire vehicles will be required to transport wheelchair users in their wheelchair, provide passengers in wheelchairs with appropriate assistance and charge wheelchair users the same as non-wheelchair users.

Owners of assistance dogs are already protected by provisions in the Equality Act 2010 which make it unlawful to refuse or charge them extra. The government have now commenced the remaining parts of sections 165 and 167 of the Equality Act 2010, making it a criminal offence for drivers of Hackney Carriage and Private Hire vehicles to refuse to carry passengers in wheelchairs, to fail to provide them with appropriate assistance, or to charge them extra.

We want to ensure that passengers in wheelchairs are better informed about the accessibility of the Hackney Carriage and Private Hire fleet in their area, confident of receiving the assistance they need to travel safely, and not charged more than a non-wheelchair user for the same journey.

We will be producing a list of wheelchair accessible vehicles. You will be placed on this list if your vehicle is capable of carrying some – but not necessarily all – types of occupied wheelchairs. This list will be published no later than 6th April 2017.

Section 172 of the Act enables vehicle owners to appeal against our decision to include you in this list. That appeal should be made to the Magistrate's Court, and must be made within 28 days of the vehicle in question being included on the LA's published list.

Section 165 of the Act sets out the duties placed on drivers of designated wheelchair accessible Hackney Carriage and Private Hire vehicles.

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.

The Act then goes on to define mobility assistance as assistance:

- To enable the passenger to get into or out of the vehicle;
- 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;
- To load the passenger's luggage into or out of the vehicle;
- If the passenger does not wish to remain in the wheelchair, to load the wheelchair into or out of the vehicle.

Once the duties are commenced, it will be an offence for the driver (unless exempt) of a Hackney Carriage and Private Hire Vehicle, which is on the licensing authority's designated list to fail to comply with them.

Section 166 allows St Albans City and District Council to exempt drivers from the duties to assist passengers in wheelchairs if we are satisfied that it is appropriate to do so on medical or physical grounds. The exemption can be valid for as short or long a time period as we think appropriate, bearing in mind the nature of the medical issue. If exempt, the driver will not be required to perform any of the duties.

Although each situation will be different, we take the view that reasonable mobility assistance will be subject to other applicable law, including health and safety legislation. However, we would always expect drivers to provide assistance such as folding manual wheelchairs and placing them in the luggage compartment, installing the boarding ramp, or securing a wheelchair within the passenger compartment.

It is our view that the requirement not to charge a wheelchair user extra means that, in practice, a meter should not be left running whilst the driver performs duties required by the Act, or the passenger enters, leaves or secures their wheelchair within the passenger compartment.

It is important to note that a driver will be subject to the duties set out in section 165 of the Equality Act 2010 if the vehicle they are driving appears on the designated list, and they have not been provided with an exemption certificate, regardless of where the journey starts or ends.

If a driver receives a conviction for breaching their duties under section 165 of the Act, we would review whether or not they remained a fit and proper person to hold a taxi or PHV drivers' licence. A driver who wilfully failed to comply with section 165 would be unlikely to remain a "fit and proper person"

We are committed to ensuring that transport works for everyone, including disabled people. We hope that the changes that come into effect on 6th April 2017 will represent a significant step in enabling wheelchair users to travel independently and free from the fear of discrimination.