

SCHEDULES

SCHEDULE 2

Section 31

SERVICES AND PUBLIC FUNCTIONS: REASONABLE ADJUSTMENTS

Preliminary

- 1 This Schedule applies where a duty to make reasonable adjustments is imposed on A by this Part.

The duty

- 2 (1) A must comply with the first, second and third requirements.
- (2) For the purposes of this paragraph, the reference in section 20(3), (4) or (5) to a disabled person is to disabled persons generally.
- (3) Section 20 has effect as if, in subsection (4), for “to avoid the disadvantage” there were substituted—
- “(a) to avoid the disadvantage, or
 - (b) to adopt a reasonable alternative method of providing the service or exercising the function.”
- (4) In relation to each requirement, the relevant matter is the provision of the service, or the exercise of the function, by A.
- (5) Being placed at a substantial disadvantage in relation to the exercise of a function means—
- (a) if a benefit is or may be conferred in the exercise of the function, being placed at a substantial disadvantage in relation to the conferment of the benefit, or
 - (b) if a person is or may be subjected to a detriment in the exercise of the function, suffering an unreasonably adverse experience when being subjected to the detriment.
- (6) In relation to the second requirement, a physical feature includes a physical feature brought by or on behalf of A, in the course of providing the service or exercising the function, on to premises other than those that A occupies (as well as including a physical feature in or on premises that A occupies).
- (7) If A is a service-provider, nothing in this paragraph requires A to take a step which would fundamentally alter—
- (a) the nature of the service, or
 - (b) the nature of A’s trade or profession.
- (8) If A exercises a public function, nothing in this paragraph requires A to take a step which A has no power to take.

Status: This is the original version (as it was originally enacted).

Special provision about transport

- 3 (1) This paragraph applies where A is concerned with the provision of a service which involves transporting people by land, air or water.
- (2) It is never reasonable for A to have to take a step which would—
- (a) involve the alteration or removal of a physical feature of a vehicle used in providing the service;
 - (b) affect whether vehicles are provided;
 - (c) affect what vehicles are provided;
 - (d) affect what happens in the vehicle while someone is travelling in it.
- (3) But, for the purpose of complying with the first or third requirement, A may not rely on sub-paragraph (2)(b), (c) or (d) if the vehicle concerned is—
- (a) a hire-vehicle designed and constructed for the carriage of passengers, comprising more than 8 seats in addition to the driver's seat and having a maximum mass not exceeding 5 tonnes,
 - (b) a hire-vehicle designed and constructed for the carriage of goods and having a maximum mass not exceeding 3.5 tonnes,
 - (c) a vehicle licensed under section 48 of the Local Government (Miscellaneous Provisions) Act 1976 or section 7 of the Private Hire Vehicles (London) Act 1998 (or under a provision of a local Act corresponding to either of those provisions),
 - (d) a private hire car (within the meaning of section 23 of the Civic Government (Scotland) Act 1982),
 - (e) a public service vehicle (within the meaning given by section 1 of the Public Passenger Vehicles Act 1981),
 - (f) a vehicle built or adapted to carry passengers on a railway or tramway (within the meaning, in each case, of the Transport and Works Act 1992),
 - (g) a taxi,
 - (h) a vehicle deployed to transport the driver and passengers of a vehicle that has broken down or is involved in an accident, or
 - (i) a vehicle deployed on a system using a mode of guided transport (within the meaning of the Transport and Works Act 1992).
- (4) In so far as the second requirement requires A to adopt a reasonable alternative method of providing the service to disabled persons, A may not, for the purpose of complying with the requirement, rely on sub-paragraph (2)(b), (c) or (d) if the vehicle is within sub-paragraph (3)(h).
- (5) A may not, for the purpose of complying with the first, second or third requirement rely on sub-paragraph (2) of this paragraph if A provides the service by way of a hire-vehicle built to carry no more than 8 passengers.
- (6) For the purposes of sub-paragraph (5) in its application to the second requirement, a part of a vehicle is to be regarded as a physical feature if it requires alteration in order to facilitate the provision of—
- (a) hand controls to enable a disabled person to operate braking and accelerator systems in the vehicle, or
 - (b) facilities for the stowage of a wheelchair.

- (7) For the purposes of sub-paragraph (6)(a), fixed seating and in-built electrical systems are not physical features; and for the purposes of sub-paragraph (6)(b), fixed seating is not a physical feature.
- (8) In the case of a vehicle within sub-paragraph (3), a relevant device is not an auxiliary aid for the purposes of the third requirement.
- (9) A relevant device is a device or structure, or equipment, the installation, operation or maintenance of which would necessitate making a permanent alteration to, or which would have a permanent effect on, the internal or external fabric of the vehicle.
- (10) Regulations may amend this paragraph so as to provide for sub-paragraph (2) not to apply, or to apply only so far as is prescribed, in relation to vehicles of a prescribed description.

Interpretation

- 4 (1) This paragraph applies for the purposes of paragraph 3.
- (2) A “hire-vehicle” is a vehicle hired (by way of a trade) under a hiring agreement to which section 66 of the Road Traffic Offenders Act 1988 applies.
- (3) A “taxi”, in England and Wales, is a vehicle—
 - (a) licensed under section 37 of the Town Police Clauses Act 1847,
 - (b) licensed under section 6 of the Metropolitan Public Carriage Act 1869, or
 - (c) drawn by one or more persons or animals.
- (4) A “taxi”, in Scotland, is—
 - (a) a hire car engaged, by arrangements made in a public place between the person to be transported (or a person acting on that person’s behalf) and the driver, for a journey starting there and then, or
 - (b) a vehicle drawn by one or more persons or animals.