



Passengers in Wheelchairs

1. What is the Council's List?

The Council has a list of 'Designated' vehicles under Equality Act 2010, Sections 165 to 167.

If you drive a 'Designated' vehicle, you must carry out the 'wheelchair duties' set out in Section 165 (these are set out below) unless both:

- you have an Exemption Certificate granted by the Council under Section 166, and
- that Exemption Certificate is properly displayed

If you do not perform those duties you can be charged by the Police and fined up to £1,000 in Court.

Also, failure might affect your Council Driver's Licence. The Council's Licensing Committee might take your failure into account when deciding whether or not to renew the Licence or to revoke or suspend it.

2. What are the 'wheelchair duties' ?

These duties are set out in Section 165. You must

- (a) 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, you must carry the wheelchair;
- (d) take such steps as are necessary to ensure that the passenger is carried in safety and reasonable comfort;
- (e) give the passenger such "Mobility Assistance" as is reasonably required.

"Mobility Assistance" is 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.

3. What is an Exemption Certificate?

You can apply to the Council for an Exemption Certificate:

- (a) on medical grounds, or
- (b) on the ground that your physical condition makes it impossible or unreasonably difficult for you to comply with the Wheelchair Duties.

The Exemption only applies:

- (a) to the named driver,
- (b) if and when the Council issues a Certificate, and
- (c) if the Certificate is properly displayed on the vehicle's windscreen and placed so that it is clearly visible.

The Council does not charge a fee for the Application, but we will not pay the cost of you getting medical evidence to support the Application. It is your responsibility to get that medical evidence. The doctor should describe the medical condition and state the doctor's opinion that you would be unable to carry out the duties.

The rules are in The Equality Act 2010 (Taxis and Private Hire Vehicles) (Passengers in Wheelchairs – Notices of Exemption) Regulations 2017 No. 342.

4. What if I don't have an Exemption Certificate and I don't meet these duties?

You can be charged by the Police.

You might have a defence to the charge if the Court is satisfied that at the time of the alleged offence it would not have been possible for the wheelchair to be carried safely in the vehicle (Section 165(9)(b)). This means that although the 'wheelchair duties' would usually apply, the Court might accept that they did not apply on a particular occasion. We emphasise 'might'. It is not up to the Council to decide whether or not you should be charged or convicted. This is a decision for the Police and the Courts. You would have to take independent legal advice on whether or not this defence is available to you.

5. How should the Exemption Certificate be displayed in the vehicle?

The Certificate is only valid if it is displayed as follows:

- on the nearside of and immediately behind the windscreen of the vehicle;
- in a manner that readily permits its removal;
- its front is clearly visible from the outside of the vehicle; and
- its back is clearly visible from the driver's seat of the vehicle.

If you do not do all of these things then the wheelchair duties apply as if you did not have an Exemption Certificate at all.

You should take the Certificate out of the vehicle when you stop driving (for example, at the end of the shift) or put it out of sight. You must not let anyone else use the Certificate.

6. How long does the Exemption Certificate last?

This is stated on the Certificate. By Law, the Certificate must state the date that the Exemption expires. Unless we see evidence that the need for an Exemption will last for your whole life, the Certificate will be limited to the date that your Council Driver's Licence has. Council Licences cannot last longer than the driver asked for, and can never last more than 3 years.

If you have a 'whole life' Certificate, the expiry date will be the same as on your DVLA Driving Licence (usually the day before the 70th birthday). If DVLA has given you a later date, we will issue a fresh Exemption Certificate free of charge.

If your Certificate is not 'whole life', this means that when you later apply to renew the Licence, you will also have to apply again for a new Exemption, and you will have to get new evidence (for example, you might have to pay your Doctor again for a new medical report).

7. What can I do if the Council refuses an Exemption Certificate?

You may be entitled to appeal to the Sheriff under Section 172(2). You should take independent legal advice before appealing. If you want to appeal, you must lodge a Summary Application at the Sheriff Clerk's office at Kilmarnock Sheriff Court before the end of the period of 28 days beginning with the date of the refusal.