MEMORANDUM

PRIVATE HIRE VEHICLES (CARRIAGE OF GUIDE DOGS ETC.) BILL

Background

1. The subject matter of the Disability Discrimination Act 1995 (DDA) is reserved. Sections 32-38 apply to England and Wales and contain provisions, supplemented by various Ministerial Regulation making powers, which are designed to improve the accessibility of taxis to people with disabilities. The equivalent Scottish provisions are contained at section 20 of the Civic Government (Scotland) Act 1982 (as amended by section 39 of the DDA) and enable similar provisions to be introduced under regulation making powers. These provisions are reserved although the function of making regulations has been executively devolved to Scottish Ministers to allow for slightly different provisions to be introduced to take account of the different licensing provisions in Scotland.

Content of the Bill

2. Section 37 of the DDA contains provisions which require taxi drivers to carry guide and other assistance dogs which accompany people with disabilities (unless medically exempt from doing so) at no additional charge and the Private Member's Bill (PMB) proposes that such requirements should be extended to the drivers of private hire cars. The subject matter of the PMB is reserved. As it would help to further improve the mobility of disabled people with assistance dogs, the PMB has the support of the UK Government. The PMB obtained its Second Reading on 19 April and is being considered in Standing Committee on 12 June.

Proposal

3. As drafted the Bill does not extend to Scotland. The Scottish Executive would like Scotland to be included as it believes that disabled people with assistance dogs, who use private hire cars as opposed to taxis, should not be discriminated against. Furthermore, failure to provide for similar provisions in Scotland to those to be introduced in England and Wales would lead to an inconsistent approach – there has long been an understanding that the DDA provisions would apply throughout England, Wales and Scotland. Consequently an omission to provide for such provisions being introduced in Scotland could result in the Executive, and the Parliament, being criticised.

4. If the PMB is to allow similar provisions to be introduced in Scotland, the Executive considers that this should be by making similar provision to that for taxis as provided for in the Civic Government (Scotland) Act 1982 Act as amended by the DDA. Therefore, we propose to confer a new regulation making power on Scottish Ministers under Section 20 of the Civic Government (Scotland) Act 1982. This new power will ensure that Scottish Ministers powers in relation to private hire cars are sufficiently flexible. As well as being consistent in approach with the taxi provisions, this would again allow the Scottish

Parliament to scrutinise the proposed regulations to ensure that they are appropriate to Scottish needs and circumstances.

5. In view of the above, the Executive believe that an amendment should be tabled at Standing Committee Stage to extend the PMB to Scotland and that the provisions should be introduced by way of an addition to the regulation making power already available to the Scottish Ministers at section 20 of the Civic Government (Scotland) Act 1982. The latter proposal will be subject to the necessary Sewel motion being approved by the Parliament. While no consultation has taken place regarding the possible addition to Scottish Ministers regulation making powers, in the event that the Bill does receive Royal Assent, public consultation on the terms of any regulations will take place prior to them being laid in the Scottish Parliament.

SCOTTISH EXECUTIVE
June 2002