

LICENSING OF TAXIS AND PRIVATE HIRE VEHICLES (SAFEGUARDING AND ROAD SAFETY) BILL

EXPLANATORY NOTES

What these notes do

These Explanatory Notes relate to the Licensing of Taxis and Private Hire Vehicles (Safeguarding and Road Safety) Bill as introduced in the House of Commons on 19 July 2017 (Bill 22).

- These Explanatory Notes have been provided by the Department for Transport with the consent of Daniel Zeichner MP, the member in charge of the Bill, 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; provide background information on the development of policy; and provide additional information on how the Bill will affect 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.

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These Explanatory Notes relate to the Licensing of Taxis and Private Hire Vehicles (Safeguarding and Road Safety) Bill as introduced in the House of Commons on 19 July 2017 (Bill 22)

Overview of the Bill

- 1 The Licensing of Taxis and Private Hire Vehicles (Safeguarding and Road Safety) Bill requires taxi and private hire vehicle (PHV) licensing authorities in England to share information with other licensing authorities to prevent unsuitable people being licensed as a taxi or PHV driver.
- 2 The Bill is in two parts: The first requires licensing authorities in England to input into a central database instances where the authority has suspended, revoked, refused to grant or refused to renew a taxi or PHV driver's licence because of certain safeguarding or road safety concerns relating to that driver. Other licensing authorities in England must then have regard to that information when considering whether to grant or renew a taxi or PHV driver's licence. The second part of the Bill requires licensing authorities in England to report certain safeguarding or road safety concerns about a taxi or PHV driver working in their area to the licensing authority in England, Wales or Scotland that granted a licence to that driver. The Bill then requires licensing authorities in England to have regard to any such reports received and to consider whether the relevant taxi or PHV driver should remain licensed.

Policy background

- 3 Existing legislation, as set out in paragraph 15 below, allows a person who is granted a taxi or PHV driver's licence by any licensing authority in England and Wales¹ to work as a PHV driver (taking pre-booked journeys only) anywhere in Great Britain.
- 4 Licensing authorities in England ("licensing authorities") are required to carry out an assessment of whether a driver is 'fit and proper' or of 'good character'. However, licensing authorities are able to set the standards for such assessments themselves and, as a result, standards vary between licensing authorities.
- 5 Licensing authorities are not required to share information with other licensing authorities who may need to know that information to take a decision about granting or renewing a driver's licence and who may find such information useful when reaching the decision. Therefore, if a driver is refused a licence or has an existing licence suspended or revoked because of safety concerns, the individual can apply for a licence in another area where the licensing authority is unlikely to be aware of the previous refusal, suspension or revocation.
- 6 Licensing authorities have powers to carry out enforcement activities only against drivers to whom they have granted a licence. They have no powers to enforce against drivers who operate in their area but who are licensed elsewhere. Since there is no obligation on licensing authorities to report concerns about drivers to the licensing authority where the driver is licensed (the "home licensing authority"), such concerns are often not acted upon due to a lack of knowledge on the part of the home licensing authority.

¹ Licensing authorities in England and Wales are generally unitary authorities, district councils or, in London, Transport for London.

Recording information

- 7 Existing legislation² obliges licensing authorities to keep registers of licences issued and make this information available on request. This information is not easily accessible however and there is no requirement to record or make available information in respect of decisions to refuse to grant or renew, or to suspend or revoke, a taxi or PHV driver's licence.
- 8 Licensing authorities are generally reliant on applicants self-declaring whether they have had a licence refused, suspended or revoked by another authority so this information is often unreliable. A licensing authority would have to individually write to every licensing authority to obtain a response from each one to confirm any information relating to an individual applicant. Since there are 293 licensing authorities in England alone, this process is clearly impractical and such information is not proactively shared by licensing authorities.
- 9 The Bill enables the Secretary of State to provide, or to designate a person to provide, a licensing information database (the "database"). The Bill then requires all taxi and PHV licensing authorities in England to record, and input into the database, instances where they have refused to grant or renew a taxi or PHV driver's licence, or suspended or revoked such a licence, because of certain safeguarding or road safety concerns. The licensing authority must also provide contact details so that other licensing authorities can seek further information as to the reasons for the decision.
- 10 When a licensing authority in England receives an application to grant or renew a driver's licence, the licensing authority must search the database for any entry relating to the applicant. If there is an entry on the database relating to that person, the licensing authority must seek further information from the relevant licensing authority that made the entry on the database. The licensing authority, when considering whether to grant or renew a driver's licence, must have regard to any information provided by the other licensing authority as to why they previously decided to refuse to grant or renew, or to suspend or revoke, a licence for that driver.

Reporting

- 11 Licensing authorities have few powers to take action against taxi or PHV drivers who work in their area but who are licensed by a different licensing authority ("out-of-area drivers").
- 12 The Bill does not restrict out-of-area driving. Such a restriction would be a fundamental change to the current regulatory regime. Licensed taxi and PHV drivers will therefore continue to be able to work outside of the area where they were granted a licence.
- 13 The Bill will change the current practice, however, by requiring licensing authorities to report certain safeguarding or road safety concerns about out-of-area drivers to their home licensing authority. The Bill also requires licensing authorities to consider whether to

² s.42 Town Police Clauses Act 1847; s.51(3) Local Government (Miscellaneous Provisions) Act 1976; s.16(1) London Hackney Carriages Act 1843; s.23 Private Hire Vehicles (London) Act 1998.

suspend or revoke a driver's licence as a result of any such information that is reported to them by another licensing authority.

- 14 This will ensure that a licensing authority who granted a licence to a driver, and who is therefore able to suspend or revoke that driver's licence, is aware of information that suggests the driver poses a public safety risk.

Legal background

- 15 The legislation relating to licensing of taxi and PHV drivers in England and Wales is set out in a combination of primary and subordinate legislation. The current provisions are set out in:

- the Town Police Clauses Act 1847;
- the Local Government (Miscellaneous Provisions) Act 1976;
- the London Hackney Carriages Act 1843;
- the Metropolitan Public Carriage Act 1869;
- the London Cab Order 1934;
- the Private Hire Vehicles (London) Act 1998;
- the Plymouth City Council Act 1975; and
- the Plymouth City Council Act 1987.

Territorial extent and application

- 16 The Bill extends to England and Wales only and applies in England.
- 17 Taxi and PHV licensing is devolved in Scotland and Northern Ireland.
- 18 In relation to Wales, competence for taxi and PHV licensing is currently reserved to Westminster. However, as a result of the Wales Act 2017, competence for taxi and PHV licensing will be devolved in Wales from April 2018.
- 19 As the Bill is a Private Member's Bill, the English votes provisions in the Standing Orders of the Commons relating to Public Business do not apply to the Bill.

Commentary on provisions of Bill

Relevant information

Clause 1: Relevant information

- 20 This clause defines “relevant information” so as to set out the information that licensing authorities are required to record or report pursuant to the following clauses of the Bill. Relevant information includes information that indicates a person poses a safeguarding or road safety risk. It does not relate, therefore, to minor road traffic offences, such as speeding.

Licensing information database

Clause 2: Duty to record information about licensing decisions in database

- 21 This clause places a duty on licensing authorities to record all instances where they have refused to grant or renew a taxi or PHV driver’s licence, or suspended or revoked such a licence, as a result of relevant information. Licensing authorities must input details of such decisions on the database within five working days of notifying the driver of the decision.
- 22 Information will be retained on the database for seven years during which time licensing authorities must ensure it is kept up to date to reflect any changes to a decision, for example, following an appeal.
- 23 Subsection (4) lists the information that licensing authorities must enter into the database. It also allows the Secretary of State to make Regulations to add new categories of information to this list.

Clause 3: Duty to search database and have regard to relevant information

- 24 As a result of this clause, when a licensing authority considers whether to grant or renew a taxi or PHV driver’s licence, the licensing authority (“licensing authority A”) must search the database in respect of the individual.
- 25 If there is an entry relating to the individual on the database, licensing authority A must make a written request for further information from the licensing authority that made the entry (“licensing authority B”).
- 26 Licensing authority B must respond to the request within 20 working days and provide, to licensing authority A, the reasons for the relevant licensing decision. Such reasons will therefore not be included on the database and will only be shared directly between licensing authorities on request.
- 27 Licensing authority A must have regard to the information received from licensing authority B when considering whether to grant or renew a licence to the individual.
- 28 The Bill does not propose that a decision taken by one licensing authority is binding on another licensing authority. Licensing authorities would be required to seek further information from the authority that made the previous decision and have regard to that information when considering whether to grant or renew a taxi or PHV driver’s licence. Licensing authorities may nonetheless come to a different decision, should their policies and procedures produce that result.

Clause 4: The database

- 29 This clause allows the Secretary of State to provide, or to designate a person to provide, the database for the purposes of the Bill. The Secretary of State may apply conditions to, and may vary or withdraw, a designation.
- 30 Subsection (2) requires the database provider to ensure that every authority responsible for licensing of taxi or PHV drivers in the UK, can access the database to make, amend, remove and reinstate entries. The database provider must also ensure that information is deleted from the database after seven years.

Out-of-area drivers

Clause 5: Duty to report concerns about out-of-area drivers

- 31 This clause applies to licensing authorities in England where they become aware of relevant information relating to the conduct of out-of-area drivers that would lead them to consider suspension or revocation if the driver were one of its own licensees. Licensing authorities in England must report such relevant information to the driver's home licensing authority, whether that home licensing authority is based in England, Wales or Scotland.
- 32 When reporting information, licensing authorities must provide sufficient information to allow the home authority to identify the driver of the taxi or PHV. Such information may include, for example, one or more of the following: the driver's name or badge number; the vehicle licence number; and the vehicle registration mark.
- 33 Licensing authorities must report such information to the home licensing authority within 10 working days of it coming to their attention.

Clause 6: Duty as regards reported concerns about out-of-area drivers

- 34 This clause requires licensing authorities to have regard to any relevant information provided to them by another licensing authority in England or similar information from an authority in Scotland or Wales.
- 35 On receipt of the relevant information, licensing authorities in England must consider whether to suspend or revoke the licence of the relevant driver, and inform the licensing authority that provided the information of their decision or intended action.

Guidance

Clause 7: Guidance

- 36 This clause enables the Secretary of State to issue statutory guidance to licensing authorities, and for licensing authorities to have regard to such guidance, in relation to exercising their duties under the Bill.

Final provisions

Clause 8: Interpretation

- 37 This clause is self-explanatory

Clause 9: Short title, extent and commencement

- 38 This clause is self-explanatory. Further explanation of the provisions relating to commencement are contained below.

Commencement

- 39 The following will come into force on the day that the Bill is passed:
- clause 1
 - the power of the Secretary of State to make regulations under clause 2; and
 - the power of the Secretary of State to issue guidance under clause 7.
- 40 Clause 4 (provisions relating to the database); clauses 5 and 6 (provisions relating to out-of-area drivers); and clause 7(4) (duty to have regard to guidance) will come into force 2 months after the Bill is passed.
- 41 The remaining provisions of this Bill will come into force on a date or dates determined by commencement Regulations.

Financial implications of the Bill

- 42 Any costs of meeting the measures provided for by the Bill will be met by licensing authorities.
- 43 Licensing authorities may recover such costs through taxi and PHV driver licence fees where they have statutory powers to do so.

Parliamentary approval for financial costs or for charges imposed

- 44 The Bill does not require a money resolution or a ways and means resolution.

Compatibility with the European Convention on Human Rights

- 45 The Bill is considered to be compatible with the European Convention on Human Rights.

Related documents

- 46 There are no related documents relevant to the Bill.

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