

# PEDICABS (LONDON) BILL

## EXPLANATORY NOTES

### What these notes do

These Explanatory Notes relate to the Pedicabs (London) Bill as introduced in the House of Commons on 21 June 2021 (Bill 58)

- These Explanatory Notes have been prepared by the Department for Transport, on behalf of Nickie Aiken, 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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## Overview of the Bill

- 1 The Bill would make provision for Transport for London (TfL) to be able to regulate pedicabs in London, for the first time.

## Policy background

- 2 Pedicabs have been operating in London for around 30 years but because they are unregulated, the precise number operating in London is unknown. Estimates range from around 400 pedicabs in operation up to 1400. Although compared to other modes the number of pedicabs in operation is estimated to be relatively small, there are concerns that many pedicabs have a lack of safety standard requirements and that they cause traffic related issues including the contravention of restrictions on one-way streets, parking in bus lanes and impeding traffic. The Government has previously been approached by Transport for London (TfL), over many years, asking for powers to allow them to more effectively control pedicab operations (pedal cycles and power-assisted pedal cycles for hire or reward).
- 3 The pedicab industry remains the only form of public transport in London that is unregulated. This is the result of a legal anomaly, which means TfL is unable to regulate pedicabs and the police (or any other enforcement body such as TfL) have few powers to control them effectively. This means that the companies operating pedicabs are not licensed; neither drivers or their vehicles are licensed; there is no requirement for pedicab drivers to undergo criminal record or right to work checks; and there is no fare control.

## Legal background

- 4 There is no extant legislation which would allow the regulation of pedicabs in London. This is because the legislation which enables TfL to regulate taxis within London does not apply to pedicabs. Conflicting judicial decisions mean that pedicabs can only be regulated outside London, where different legislation applies.
- 5 Outside London, in England and Wales, pedicabs are treated as taxis for the purposes of the Town Police Clauses Act 1847 and Part II of the Local Government (Miscellaneous Provisions) Act 1976. Accordingly, pedicabs may be regulated as taxis under the provisions of the 1847 and 1976 Acts.
- 6 By contrast, within London, pedicabs are not treated as taxis for the purpose of the Metropolitan Public Carriage Act 1869, which is the equivalent legislation in London. Pedicabs are instead considered stage carriages in London pursuant to section 4 of the Metropolitan Public Carriage Act. The legislation governing stage carriages is obsolete, there are no licensing provisions, so pedicabs are unregulated in London.
- 7 It is not considered appropriate to amend the 1869 Act to regulate pedicabs. However, this Bill is modelled on sections 9 and 10 of that Act, which enable TfL to make orders that regulate taxis in London and to attach penalties to contraventions.

## Territorial extent and application

- 8 This Bill extends to England and Wales but only applies in England to pedicabs operated within Greater London.

## Commentary on provisions of Bill

### Clause 1: Power to regulate pedicabs

- 1 Subsection (1) will enable TfL to make regulations for the purpose of regulating the use of pedicabs in public places in Greater London in circumstances in which payment is made for the carriage of passengers.
- 2 Subsection (2) defines the terms pedicab and public place. A pedicab is defined as a pedal cycle or a power assisted pedal cycle, either alone or in combination with a trailer, constructed or adapted for carrying one or more passengers. A wide definition is required because there are many different types of pedicab. A public place is defined as any place to which the public have access (whether or not on payment). Hence the Bill is not limited to pedicabs which operate on public highways.
- 3 Subsection (3) requires that, before making regulations, TfL must consult whatever persons they consider appropriate. This will give Transport for London a wide discretion as to who may be consulted.
- 4 Subsection (4) refers to later sections of the Bill setting out specific examples of provisions that may be made by pedicab regulations.
- 5 A general enabling power in these terms is considered to be appropriate because it would not be proportionate to make provision for the regulation of pedicabs by way of detailed primary legislation. It will allow all of the details of the regulatory regime to be determined after appropriate consultation and enable the regime to be adapted from time to time in response to changing circumstances.

### Clause 2: Licence, fares and other matters

- 6 Subsection (1) is designed to enable TfL to license pedicabs, their drivers and operators in a manner similar to the licensing regime applicable to taxis.
- 7 Subsection (2) requires that pedicab regulations made by TfL relating to the licensing of pedicabs drivers or operators must include provision that corresponds to the provisions contained in the Private Hire Vehicles (London) Act 1998, in relation to immigration status.
- 8 Subsection (3) will enable TfL to charge for the administration of licence applications.
- 9 Subsection (4) will enable TfL to set fees at a level which allows it to recover its costs associated with carrying out functions under pedicabs regulations.
- 10 Subsection (5) will enable TfL to make provisions about fares for pedicabs. There are concerns that overcharging is common, especially when pedicabs are hired by tourists.
- 11 Subsection (6) will enable TfL to make pedicab regulations that make provision on a range of issues, including eligibility requirements for pedicab drivers and operators; the standards of pedicabs; safety standards; equipment that must be carried on pedicabs; pedicabs' appearance and marking; the testing of pedicabs; speed restrictions placed on pedicabs; the working conditions of drivers; and drivers' conduct. This would cover, for example, requiring that drivers and operators must be fit and proper persons who have been the subject of

appropriate criminal record checks. This subsection would also require pedicab regulations to require that pedicabs are insured and roadworthy. Such requirements should help ensure the safety of passengers and protect other road users.

- 12 Subsection (7) will enable TfL to place restrictions on pedicab operations, including the number of pedicabs in operation in specified places or specified times. This includes restricting pedicabs from operating in areas in which they are causing obstruction or congestion. They may only be allowed to stand for hire in specific areas (similar to taxi ranks) and at specific times, and regulations may also specify other circumstances where operations would be restricted.
- 13 Subsection (8) makes clear that TfL can impose requirements on drivers or operators.
- 14 Subsection (9) will allow for pedicab regulations to confer a discretion on TfL.
- 15 Sub-section (10) will enable TfL to authorise others to undertake functions under the regulations on TfL's behalf.

### Clause 3: Enforcement

- 16 Subsection (1) will enable TfL to create offences in relation to the provision of false or misleading information in connection with licensing applications or decisions, and in respect of a failure to comply with requirements imposed by the regulations.
- 17 Subsection (2) limits the impact of subsection (1). It means that drivers and operators can only be prosecuted in a Magistrates' Court and cannot be punished with imprisonment. They can only be punished with a fine which does not exceed a prescribed statutory maximum (currently £2,500).
- 18 Subsection (3) will enable TfL to impose civil penalties (as well as or in addition to creating offences) in relation to conduct described in subsection (1). Civil penalties may be a more effective method of enforcing the regime because they may be imposed more promptly for minor contraventions (such as not displaying a licence) and will avoid the need to pursue a prosecution in a Magistrates' Court.
- 19 Subsection (4) will enable vehicles to be immobilised, seized, retained and disposed of where they are used in contravention of the regulations. TfL may need to take such action if a vehicle is found to be unsafe, unroadworthy, unlicensed or uninsured.
- 20 Subsection (5) will enable TfL to enter into arrangements with the Metropolitan Police, which are similar to those applicable to the enforcement of the taxi licensing regime.

### Clause 4: Appeals

- 21 Subsection (1) has the effect that any person in relation to whom any relevant regulatory decision (as set out in subsection (3)) is taken by TfL will have the right to request that the decision is re-considered and to appeal to a Magistrates' Court; subsection (2) will enable further rights to be conferred to request that decisions are reconsidered or to appeal; and subsection (4) will enable further provision to be made by TfL about re-consideration or appeals.

### Clause 5: Procedure for pedicab regulations

- 22 This clause provides that the power to make pedicab regulations is exercisable by statutory instrument, subject to the negative resolution procedure.
- 23 The powers to regulate taxis in London under sections 9 and 10 of the Metropolitan Public Carriage Act 1869 were originally conferred on the Secretary of State, who made taxi regulation orders by Statutory Instrument. TfL was substituted for the Secretary of State by

the Greater London Authority Act 1999, in consequence of which taxi regulation orders are no longer subject to any form of Parliamentary scrutiny.

- 24 By contrast, it is considered appropriate that pedicab regulations made by TfL under the Bill should be made by Statutory Instrument, subject to the negative resolution procedure. Having regard to the subject matter, this would be a more proportionate form of Parliamentary scrutiny than the affirmative resolution procedure.

### Clause 6: Interpretation

- 25 This clause defines terms used in the Bill, the meanings of which are largely self-evident.

### Clause 7: Commencement

- 26 This clause is self-explanatory.

### Clause 8: Extent

- 27 This clause provides that the Bill extends to England and Wales. As explained above, it applies only to pedicabs operated within Greater London.

### Clause 9: Short title

- 28 This clause is also self-explanatory.

## Commencement

- 29 The Bill comes into force at the end of the period of two months beginning with the day on which it is passed.

## Financial implications of the Bill

- 30 Any costs of meeting the measures provided for by the Bill will be met in the first instance by TfL.
- 31 TfL can, and may decide to, recover these costs through pedicab licence fees.

## Parliamentary approval for financial costs or for charges imposed

- 32 A money resolution will be needed for the Bill. TfL is partly funded by grants paid by the Secretary of State under section 101 of the Greater London Authority Act 1999. Adding to its functions gives rise to the possibility of an increase in grant-funding under that section, although in practice it is expected that any expenditure incurred by TfL will be met by fees.
- 33 A ways and means resolution will be needed to cover fees payable in respect of licensing. See clause 2(3) and 2(4) of the Bill.

## Compatibility with the European Convention on Human Rights

- 34 No statement of compatibility with section 19 of the Human Rights Act 1998 is required because this is a Private Members' Bill. However, the Bill is considered to be compatible with

the European Convention on Human Rights. The issues are summarised briefly in the following paragraphs.

- 35 The provisions of the Bill engage and potentially interfere with Article 1 of Protocol 1 (protection of property) and Article 6 (right to a fair trial).
- 36 This is because (as is explained in more detail above) the Bill enables TfL to make regulations which may require the drivers and operators (who in either case may also be the owners) of pedicabs to hold licences and comply with a wide range of relevant requirements. The regulations may create offences and authorise the suspension or revocation of licences, the imposition of civil penalties and the immobilisation, seizure, retention or disposal of pedicabs.
- 37 The measures in the Bill are necessary to control the use of pedicabs in the public interest and for effective enforcement if pedicabs are operated in contravention of relevant requirements, for example, if they are unroadworthy and constitute a risk to the safety of passengers or other road users, stand or ply for hire in places in which they may cause traffic congestion or otherwise constitute a public nuisance.
- 38 However (as is also explained above), the Bill also provides that provision must be made for rights to require the re-consideration of (and appeal to a Magistrates' Court from) key enforcement decisions which would not otherwise be capable of being appealed by any other means.

## Related documents

39 The following documents are relevant to the Bill and can be read at the stated locations:

- [Government Response to the report of the Task and Finish Group on taxi and private hire vehicle licensing \(publishing.service.gov.uk\)](https://publishing.service.gov.uk).

## Annex- Territorial extent and application in the United Kingdom

The Territorial extent of the Bill is England and Wales. Taxi and private hire legislation is devolved in Scotland and Northern Ireland.<sup>1</sup>

Provision	Extends to E & W and applies to England?	Extends to E & W and applies to Wales?	Extends and applies to Scotland?	Extends and applies to Northern Ireland?	Would corresponding provision be within the competence of the Welsh Parliament?	Would corresponding provision be within the competence of the Scottish Parliament?	Would corresponding provision be within the competence of the Northern Ireland Assembly?	Legislative Consent Motion needed?
Clause 1	Yes	No	No	No	Yes	Yes	Yes	No
Clause 2	Yes	No	No	No	Yes	Yes	Yes	No
Clause 3	Yes	No	No	No	Yes	Yes	Yes	No
Clause 4	Yes	No	No	No	Yes	Yes	Yes	No
Clause 5	Yes	No	No	No	Yes	Yes	Yes	No
Clause 6	Yes	No	No	No	Yes	Yes	Yes	No
Clause 7	Yes	No	No	No	Yes	Yes	Yes	No
Clause 8	Yes	No	No	No	Yes	Yes	Yes	No
Clause 9	Yes	No	No	No	Yes	Yes	Yes	No

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<sup>1</sup> References in this Annex to a provision being within the legislative competence of the Scottish Parliament, the Welsh Parliament or the Northern Ireland Assembly are to the provision being within the legislative competence of the relevant devolved legislature for the purposes of Standing Order No. 83J of the Standing Orders of the House of Commons relating to Public Business.



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