

PEDICABS (LONDON) BILL [HL]

EXPLANATORY NOTES

What these notes do

These Explanatory Notes relate to the Pedicabs (London) Bill [HL] as brought from the House of Lords on 7 February 2024 (Bill 163).

- These Explanatory Notes have been prepared by the Department for Transport 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 (pedal cycles and power-assisted pedal cycles for hire or reward) have been operating in London for around 30 years but because they are unregulated, the precise number operating in London is unknown. Recent estimates range from around 200 pedicabs in operation up to 900 during peak season. Although compared to other modes of transport the number of pedicabs in operation is estimated to be relatively small, there are concerns that many pedicabs lack safety standard features and that they cause traffic related issues including the contravention of restrictions on one-way streets, parking in bus lanes and impeding traffic.
- 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 nor 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. There are concerns that overcharging is common, particularly when pedicabs are hired by tourists.
- 4 The Government has previously been approached by TfL, over many years, asking for powers to allow them to more effectively control pedicab operations. Such requirements should help ensure the safety of passengers and protect other road users.

Legal background

- 5 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 be regulated only outside London, where different legislation applies.
- 6 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.
- 7 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 no longer in force; there are therefore no licensing provisions, so pedicabs are unregulated in London.

- 8 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

- 9 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

- 10 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.
- 11 Subsection (2) defines the term pedicab. 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 and which is made available with a driver for hire or reward. A wide definition is required because there are many different types of pedicab.
- 12 Subsection (3) requires that, before making regulations, TfL must consult whatever persons they consider appropriate. This will give TfL a wide discretion as to who may be consulted.
- 13 The government considers a general enabling power in these terms 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 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

- 14 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.
- 15 Subsection (2) requires that pedicab regulations made by TfL relating to the licensing of pedicab 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. The effect of this would be to disqualify a person from being licensed as a pedicab driver or operator if the person is subject to immigration control and the person has not been granted leave to enter or remain in the United Kingdom, or if the person's leave to enter or remain in the United Kingdom is invalid, has ceased to have effect, or is subject to a condition preventing the person from acting as a licensed pedicab driver or operator (as applicable).
- 16 Subsection (3) will enable TfL to charge for the administration of licence applications.
- 17 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.

- 18 Subsection (5) will enable TfL to make provisions about fares for pedicabs.
- 19 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, including in particular provision on making noise. Pedicab regulations 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 allow pedicab regulations to require that pedicabs are insured and roadworthy.
- 20 Subsection (7) will enable TfL to place restrictions on pedicab operations, including the number of pedicabs in operation in specified places or at specified times. This could include 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.
- 21 Subsection (8) will allow TfL to make publicly available information about licences, or the pedicabs, operators or drivers to which they relate.
- 22 Subsection (9) makes clear that TfL can impose requirements on drivers or operators.
- 23 Subsection (10) will allow for pedicab regulations to confer a discretion on TfL. It will also enable TfL to authorise others, including its enforcement officers, to undertake functions, including conducting enforcement activities, under the regulations on TfL's behalf.

Clause 3: Enforcement

- 24 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.
- 25 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). This restriction does not apply where the offence concerns matters dealt with by clause 2(2) (concerning immigration status).
- 26 Subsections (3) and (4) will enable TfL to allow a person charged with an offence under the regulations to discharge their liability for the offence by paying a fixed penalty notice.
- 27 Subsection (5) 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.
- 28 Subsection (6) 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.

- 29 Subsection (7) 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

- 30 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: Exclusion from private hire vehicle legislation

- 31 This clause provides for a consequential amendment to section 36 of the Private Hire Vehicles (London) Act 1998. The purpose of this amendment is to explicitly exclude power-assisted pedicabs from the private vehicle legislation. This is to prevent such vehicles being subject to both regulatory regimes. The meaning of trailer is as per Clause 8 of the Pedicabs (London) Bill.

Clause 6: Procedure for pedicab regulations

- 32 This clause provides that the power to make pedicab regulations is exercisable by statutory instrument.
- 33 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.
- 34 This clause seeks to provide similar powers to TfL in bringing forward pedicab regulations. This is considered appropriate as it recognises the significant experience TfL hold in licensing taxis and private hire vehicles. Having regard to the Bill relating solely to Greater London and the relative size of the industry in comparison to the much larger taxi and private hire vehicle industries, this is considered proportionate.

Clause 7: Guidance

- 35 This clause provides the Secretary of State with a permissive power to issue statutory guidance to TfL about the exercising of their functions under pedicab regulations. Subsection (2) specifies that this guidance may include guidance about how TfL's functions may be exercised so as to protect children, and vulnerable individuals who are 18 or over, from harm. Subsection (3) states that the Secretary of State may revise this guidance and subsection (4) states that the guidance, and any revisions, must be published.
- 36 Subsection (5) specifies that TfL, or any person authorised to carry out functions under pedicab regulations on their behalf, must have regard to any guidance issued when exercising functions under the regulations.

37 Subsection (6) requires the Secretary of State to consult whoever is considered appropriate prior to issuing guidance.

38 This clause is intended to strike a balance with the powers provided under clause 6 of the Bill, particularly TfL's ability to bring forward pedicab regulations without the requirement of parliamentary procedure. It will offer the opportunity for the Secretary of State to influence how TfL exercises their functions under the regulations.

Clause 8: Interpretation

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

Clause 9: Commencement

40 This clause is self-explanatory.

Clause 10: Extent

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

Clause 11: Short title

42 This clause is also self-explanatory.

Commencement

43 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

44 Any costs of meeting the measures provided for by the Bill will be met in the first instance by TfL.

45 TfL can, and may decide to, recover these costs through pedicab licence fees.

Parliamentary approval for financial costs or for charges imposed

46 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.

47 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

- 48 The Government considers that the Bill is compatible with the European Convention on Human Rights. Accordingly, The Rt Hon Mark Harper MP, Secretary of State, has signed a statement under section 19(1)(a) of the Human Rights Act 1998 to this effect. The issues are summarised briefly in the following paragraphs.
- 49 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).
- 50 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.
- 51 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.
- 52 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.

Consideration of the Environment Act 2021

- 53 The Rt Hon Mark Harper, Secretary of State, is of the view that the Bill as introduced into the House of Commons does not contain provision which, if enacted, would be environmental law for the purposes of section 20 of the Environment Act 2021. Accordingly, no statement under that section has been made.

Related documents

- 54 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: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/923695/taxi-task-and-finish-gov-response.pdf

Annex A - 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.

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
Clause 10	Yes	No	No	No	Yes	Yes	Yes	No

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