

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

EXPLANATORY NOTES

What these notes do

These Explanatory Notes relate to the Taxis and Private Hire Vehicles (Safeguarding and Road Safety) Bill as brought from the House of Commons on 24 January 2022 (HL Bill 99).

- These Explanatory Notes have been prepared by the Department for Transport with the consent of Lord Borwick, the Peer 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 Taxis and Private Hire Vehicles (Safeguarding and Road Safety) Bill as brought from the House of Commons on 24 January 2022 (HL Bill 99)

Overview of the Bill

- 1 The Taxis and Private Hire Vehicles (Safeguarding and Road Safety) Bill requires taxi and private hire vehicle licensing authorities in England to share information of recent adverse licensing history (refusals, suspensions or revocations of a licence) and for this to be considered, to mitigate the risk that unsuitable people are granted or hold a taxi or private hire vehicle (PHV) driver licence.
- 2 The Bill has two main sets of provisions. The first require 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.
- 3 The second set of provisions in the Bill requires licensing authorities in England to report certain serious safeguarding or road safety concerns about a taxi or PHV driver working in its 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

- 4 Existing legislation, as set out in paragraph 16 below, allows a person who is granted a taxi or PHV driver's licence by any licensing authority in England and Wales¹ to fulfil pre-booked journeys anywhere in Great Britain.
- 5 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'. The Department for Transport issued Statutory Taxi and Private Hire Vehicle Standards to licensing authorities in England in 2020 to which they must have regard when setting their policies. The Statutory Standards are explicit about the benefits to public safety of greater sharing of relevant information and in particular the use of the national register of taxi and private hire vehicle driver licence refusals and revocations (NR3). While the Department for Transport has advised that it expects the measures in the Statutory Standards to be implemented unless there is a compelling reason not to, licensing authorities are able to deviate from them.
- 6 Licensing authorities are not required to share information with other licensing authorities that may need to consider that information to take a fully informed decision about granting or renewing a driver's licence. Therefore, if a driver is refused a licence or has an existing licence suspended or revoked because of safety concerns, the individual may be able to apply for a licence in another area where the licensing authority might be unaware of the previous refusal, suspension or revocation.
- 7 Licensing authorities have powers only to take action against the licence of a driver if they

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

granted the licence even if that driver was working in their area. Since there is no obligation on licensing authorities to report concerns about drivers to the licensing authority that issued the licence (the “home licensing authority”), concerns over safety are often not acted upon due to a lack of knowledge on the part of the home licensing authority.

Recording Information

- 8 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, drivers’ licences.
- 9 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 contact every licensing authority and provide a common unique identifier to obtain a response from each to confirm any information relating to an individual applicant. Since there are 276 licensing authorities in England alone, this process is clearly impractical and such information is not always proactively shared by licensing authorities. Some licensing authorities do use an existing voluntary database to record instances of revocations and refusals, but not all do this.
- 10 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.
- 11 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 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 Safeguarding or Road Safety Concerns

- 12 As stated in paragraph 7, licensing authorities are unable to take action against the licence of a taxi or PHV driver licensed by a different licensing authority.
- 13 It is not the intention of the Bill to remove the ability of taxi and PHV drivers from fulfilling pre-booked journeys as detailed in paragraph 4. Such a restriction would be a fundamental change to the current regulatory regime and may be detrimental to the passenger in terms of availability and quality of service. Licensed taxi and PHV drivers will therefore continue to be

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

able to fulfil pre-booked journeys outside of the area where they were granted a licence.

- 14 The Bill will change the current practice by requiring licensing authorities to report certain serious safeguarding or road safety concerns about licensed drivers to their home licensing authority. The reporting authority's concerns must be sufficiently credible and serious that, had it granted the licence, it would have considered suspending or revoking it. The Bill also requires licensing authorities to consider whether to suspend or revoke a driver's licence as a result of any such information that is reported to them by another licensing authority.
- 15 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

- 16 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:
 - a. the Town Police Clauses Act 1847;
 - b. the Local Government (Miscellaneous Provisions) Act 1976;
 - c. the London Hackney Carriages Act 1843;
 - d. the Metropolitan Public Carriage Act 1869;
 - e. the London Cab Order 1934;
 - f. the Private Hire Vehicles (London) Act 1998;
 - g. the Plymouth City Council Act 1975; and
 - h. the Plymouth City Council Act 1987.

Territorial extent and application

- 17 The Bill extends to England and Wales only and applies in England.
- 18 Taxi and PHV licensing is devolved in Scotland, Wales and Northern Ireland.
- 19 See the table in Annex A for a summary of the position regarding territorial extent and application in the United Kingdom.

Commentary on provisions of Bill

Clause 1: Relevant Information

- 20 This clause defines “relevant information”. Relevant information includes information that indicates a person poses a safeguarding or road safety risk. The term is used in various clauses of the Bill.

Clause 2: Duty to record information about licensing decisions in the 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, relying at least partly on 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 eleven 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 This clause requires that when a licensing authority considers whether to grant or renew a taxi or PHV driver’s licence, the licensing authority (“the decision-making authority”) must search the database in respect of the individual.
- 25 If there is an entry relating to the individual on the database, the decision-making authority must make a written request for further information from the licensing authority that made the entry (“the recording authority”).
- 26 The recording authority must respond to the request within 20 working days and provide, to the decision-making authority, 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 The decision-making authority must have regard to the information received from the recording authority 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 procedures and consideration 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, 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 eleven years.

- 31 Subsection 4 allows a fee to be charged by the person operating the database, but where that person is not the Secretary of State, that person may only charge a fee if the Secretary of State has agreed the amount of this.

Clause 5: Duty to report concerns about drivers licensed in other areas

- 32 This clause applies to licensing authorities in England (“the first authority”) where they become aware of relevant information relating to the conduct of drivers licensed by another authority that would lead them to consider suspension or revocation if the driver were one of its own licencees. Licensing authorities in England must report such relevant information to the licensing authority (“the second authority”), whether that second authority is based in England, Wales or Scotland.
- 33 When reporting information, the first licensing authorities must provide any information which it is aware of to allow the second authority to identify the driver of the taxi or PHV.

Clause 6: Duty as regards reported concerns about drivers licensed in other areas

- 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 must notify the other licensing authority of the decision together with their reasons for any action they are taking.

Clause 7: Guidance

- 36 This clause enables the Secretary of State to issue statutory guidance to licensing authorities and requires licensing authorities to have regard to such guidance.

Clause 8: Interpretation

- 37 This clause defines certain terms used in the Bill.

Clause 9: Short title, extent and commencement

- 38 This clause specifies the extent of the Bill and its short title and provides for its commencement. Further explanation of the provisions relating to commencement are contained below.

Commencement

- 39 The following provisions of the Bill will come into force on the day that the Bill is passed:
- a. Clause 1;
 - b. The power of the Secretary of State to make regulations under clause 2;
 - c. The powers of the Secretary of State in relation to the issuing of guidance under clause 7; and
 - d. Clauses 8 and 9.
- 40 The following provisions of the Bill will come into force 2 months after the Bill is passed:
- a. the power of the Secretary of State under clause 4 in relation to designating someone to operate the database;
 - b. clauses 5 and 6;
 - c. and the remainder of clause 7
- 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 the measures provided for by the Bill could be met by licensing authorities by virtue of the power to charge a fee in respect of the costs of the database. However, since such a fee will not automatically be levied, the Bill effectively provides the option for the database to be funded directly by Government.
- 43 Licensing authorities may recover any such costs imposed on them 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 This is a Private Member's Bill and the Government is not required to give a statement of compatibility with the European Convention on Human Rights (ECHR) in accordance with section 19(1)(a) of the Human Rights Act 1998.

Related documents

- 46 The following document is relevant to the Bill and can be read at the stated location:
- Statutory Taxi and Private Hire Vehicle Standards:
<https://www.gov.uk/government/publications/statutory-taxi-and-private-hire-vehicle-sta>

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Annex A - Territorial extent and application in the United Kingdom

Taxi and PHV policy is a devolved matter. The provisions in the Bill primarily extend to England and Wales and apply in England only.

Provision	England	Wales		Scotland		Northern Ireland	
	Extends to E & W and applies to England?	Extends to E & W and applies to Wales?	Legislative Consent Motion process engaged?	Extends and applies to Scotland?	Legislative Consent Motion process engaged?	Extends and applies to Northern Ireland?	Legislative Consent Motion process engaged?
Clause 1	Yes	No	No	No	No	No	No
Clause 2	Yes	No	No	No	No	No	No
Clause 3	Yes	No	No	No	No	No	No
Clause 4	Yes	No	No	No	No	No	No
Clause 5	Yes	No	No	No	No	No	No
Clause 6	Yes	No	No	No	No	No	No
Clause 7	Yes	No	No	No	No	No	No
Clause 8	Yes	No	No	No	No	No	No
Clause 9	Yes	No	No	No	No	No	No

Subject matter and legislative competence of devolved legislatures

In the opinion of the UK Government, the subject matter of the Bill is within the devolved competence of the Welsh, Scottish and Northern Irish legislatures because it relates to taxi and PHV policy and is controlled by the respective Devolved Administrations.

Taxi and PHV licensing is within the competence of Senedd Cymru because it is not a reserved matter under Schedule 7A of the Government of Wales Act 2006. It is within the competence of the Scottish Parliament because it is not a reserved matter under Schedule 5 of the Scotland Act 1998. It is within the competence of the Northern Ireland Executive because it is neither reserved under Schedule 3 to the Northern Ireland Act 1998 nor excepted under Schedule 2 to that Act.

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