



**Report of the Assistant Director to the
General Licensing Regulatory Board
to be held on the 18 June 2014**

DEREGULATION BILL REPORT

1. Purpose of Report

The purpose of this report is to provide Members with an update regarding Governments proposed amendments to the Local Government (Miscellaneous Provisions) Act 1976, as set out in the Deregulation Bill 2013/2014.

2. Background

Members are minded to note that the content of this report refers only to the proposed clauses contained within bill and does not in any way reflect the thoughts and opinions of this local authority.

3. Current Position

On 29 April 2014, a parliamentary debate took place to discuss the Deregulation Bill as part of its drive to reduce the overall burden of regulation on businesses and individuals and 'cut red tape'. The bill comprises of three measures for inclusion which the Government considers will generate significant benefits for the taxi and private hire trades.

The three new clauses introduced to the Deregulation Bill by the Government are detailed below.

Clause 8 - Private Hire Vehicles: Circumstances in which drivers licence required to drive a licensed private hire vehicle:

It is understood the rationale behind this proposal is to seek a balance between professional and reasonable personal usage of a car by private hire drivers and their families. However, Ministers have raised concerns relating to the fact that drivers of private hire vehicles (PHVs) are in a responsible and privileged position and users of these vehicles therefore need to be assured

that drivers are thoroughly checked. The clause as it currently stands permits anyone to drive the licensed vehicle. Should anyone be able to drive a PHV, further concern has been raised as it would be considered impossible to be assured that the person driving a vehicle is in fact the person who has been through the required vetting process to become a licensed driver.

The reverse burden of proof in this clause does not provide the necessary protection and assurances for passengers, as it relies on the vehicle being stopped once the passengers are in it. Unfortunately, licensing officers do not have the power to stop moving vehicles, meaning the opportunity for intervention is limited only to when the passenger is embarking or disembarking. It is understood that the Law Commission work may contain a proposal to remedy this, but in the present circumstances local licensing authorities ability to maintain safety could be argued to be seriously undermined if this clause was introduced as drafted.

In principle, the nomination of a specific family member as an alternate driver would achieve a more appropriate balance between the greater flexibility for families that the new clause aims to achieve with the need to reduce risk and provide assurances for passengers.

If this clause is amended, it will need to consider a number of important areas of risk. For instance, the investigation and enforcement of traffic offences may be complicated as licensed drivers could claim that their nominated driver was responsible, therefore avoiding a review of their licence to operate as a private hire driver.

Similarly, vehicles are clearly marked as licensed vehicles and, in many areas, it is not possible to remove these markings to distinguish between times when the vehicle is actively available for hire and when it is not. There is, therefore, a potential great risk that the public may enter the marked vehicle in the belief that the driver has been through the appropriate vetting process to become a licensed driver. This could be addressed through a strengthened enforcement system, however, it is important to note that only limited action could be taken with the present system. Separately, insurance

companies have advised that many vehicles will not be covered for additional drivers, or for driving outside limited geographical areas, and that the costs may outweigh the benefits for many PHV drivers.

Clause 9 - Taxi and Private Hire Vehicles: Duration of Licences

Local authorities have stated that it is important they are able to retain the undertaking of valid checks on drivers. The reformed Disclosure and Barring Scheme (DBS) now offers the opportunity for Councils to be alerted to new convictions when they occur, but only if the individual driver voluntarily signs up to that service. If the driver does not sign up to that additional service, then it may be appropriate to retain more frequent licence renewals to ensure that drivers do not persist in driving after they have been convicted of a relevant offence.

Whilst a convicting court should already notify a Council of any convictions affecting a driver of a licensed vehicle, many local courts have failed to ensure this notification system is effectively implemented. Therefore, Ministers have been urged to work with local courts to ensure that this important check process is properly implemented.

Clause 10 – Private Hire Vehicles: Sub Contracting between Operators

A member of the public may place a booking with a PHV firm for many reasons, including a positive previous experience or familiarity with a local firm. Sub-contracting across licensing areas could result in the passenger having little if not any knowledge of the quality or, in some cases, the name of the company that arrives to deliver the service.

There are also questions surrounding who would retain responsibility in the event that the sub-contractor was unable to deliver the contract (for instance, in the event of a breakdown or puncture), as well as consumer protection issues surrounding the question of how a passenger can identify and complain to the correct licensing authority, which could be on the other side of the country. This is a serious concern to many local licensing authorities, as the legislation currently limits enforcement to a designated officer of the licensing authority, leaving enforcement officers from other Council's

powerless to intervene even where a journey takes place in a different location.

These issues are further complicated by the failure of the clause to specify the number of times that sub-contracting could take place. In theory, the booking could be passed on 5 or 6 times, leaving the passenger with virtually no understanding of who was providing the service, or how to trace the correct route for redress or complaint if something goes wrong.

It is understood that the Law Commission proposals for reform may address this issue, enabling this clause to be brought forward again as part of any wider necessary reform.

4. Proposal

To await the enactment of the proposed clauses contained within the Deregulation Bill and where necessary, raise concerns with MP's to ensure each clause will equip the licensed trade and members of the public alike with a service industry that is fair, economical and one that holds passenger safety at the forefront of Central Governments mind.

5. Background Papers

None

6. Officer Contact

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