



BRIEFING PAPER

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Taxi and private hire vehicle licensing in England & Wales

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Summary

This paper sets out the licensing arrangements for taxis and private hire vehicles and their drivers and the enforcement of those licences. It also looks at some of the issues currently of concern to the industry and licensing authorities.

As taxi licensing is devolved in Scotland and Northern Ireland this paper only deals with England and Wales. Once the *Wales Bill* becomes law, licensing will also be devolved in Wales and this paper will be amended to cover England only.

The present law varies depending where one is. The licensing conditions that are applied to taxis and PHV drivers and the local conditions of vehicle fitness are for each local licensing authority to decide, so can vary considerably from area to area.

- In **England** and **Wales**, outside London, taxis are licensed by district councils under the [Town Police Clauses Act 1847](#) or that Act as amended by the [Local Government \(Miscellaneous Provisions\) Act 1976](#). All taxis and their drivers must be licensed. Private hire vehicles (PHVs), sometimes referred to as minicabs, drivers and operators are subject to licensing if a district council has adopted Part II of the 1976 Act (most have) or has similar provisions contained in a local Act.
- In **London**, the taxi legislation dates back to the nineteenth century, but the main licence conditions are made under the *London Cab Order 1934*. The minicab trade in London is licensed by regulations made under the [Private Hire Vehicles \(London\) Act 1998](#).
- In **Scotland** taxis and PHVs are licensed under Part II of the [Civic Government \(Scotland\) Act 1982](#), as amended. Licensing works in much the same way as in England and Wales.
- In **Northern Ireland** taxis are licensed under the [Taxis Act \(Northern Ireland\) 2008](#) and PHVs

The legal framework in England and Wales, including London, was reviewed in 2012-14 by the Law Commission, which published recommendations and a draft Bill in May 2014. The Government has yet to publish a response to this and indicate whether it intends to implement the wholesale reform proposed by the Commission. The Coalition Government made minor changes to the law in the [Deregulation Act 2015](#). The [Wales Bill](#) includes proposals to devolve responsibility for taxi licensing in Wales.

Both the taxi and private hire industries are facing challenges from new technology, and from legislative change, causing concern and anger amongst a number of operators and drivers. This is a particular issue in London where Uber has been subject to legal challenge and its use by PHV drivers in London has proven deeply controversial.

The issue of quantity restrictions is dealt with in a separate note ([SN2772](#)). Information on other roads- and traffic-related issues can be found on the [Roads Topical Page](#) of the Parliament website.

1. What is a 'taxi'?

The term 'taxi' is in common usage across the country, but there can be differences in how that term is used.

For example, in London the term 'taxi' is synonymous with the city's black cabs (licensed as 'hackney carriages') and the term 'minicab' tends to be used to refer to private hire vehicles (essentially anything that is not a black cab). Outside of London the term 'taxi' is often used to refer to both hackney carriages and PHVs, although they are licensed differently.

The term 'taxi' is relatively modern. It was first used in legislation in the [Transport Act 1980](#), where section 64(3) defines a taxi in the same terms as a 'hackney carriage'.¹ Most of the legislation and case law still refers to taxis as 'hackney carriages'.

The Law Commission looked at the definition of 'taxi' in its May 2014 report. It concluded that the term 'hackney carriage' should be replaced in legislation with the word 'taxi', while the term 'private hire vehicle' should remain unchanged:

We ... recommend that the statutory language be changed to "taxi" for hackney carriages. The use of "hackney carriage" is an historic anomaly. "Private hire", on the other hand, is a modern term which, although it may not receive much public usage, accurately describes the service it relates to.

We recognise that there is a significant depth of feeling in relation to the use of the term "taxi", in any form, by private hire firms. Given the growth of online marketing it seems that only an outright prohibition on these terms would be effective. We acknowledge that the term "private hire" is not well-known amongst the general public, and the term "minicab" is only used to any great extent in London. Yet if private hire vehicles are to be prohibited from using signage including the word "taxi" it appears inevitable that this restriction should also apply to advertising. It could be argued that allowing private hire firms to advertise as taxis might encourage the public to try to hail private hire vehicles. On the other hand, private hire vehicles should continue to be allowed to advertise as "cabs".²

Thus, for the purposes of this paper, and in line with the Law Commission's recommendation, the term 'taxi' is used to refer to what are currently defined in legislation as 'hackney carriages'.

¹ i.e. a vehicle licensed under section 37 of the *Town Police Clauses Act 1847*, section 6 of the *Metropolitan Carriage Act 1869*, section 10 of the *Civic Government (Scotland) Act 1982* or "any similar local enactment"

² Law Commission, [Taxi and Private Hire Services](#) (Law Com No 347), Cm 8864, May 2014, p24, paras 3.31-3.32

2. Licensing law

2.1 History & numbers

The regulation of the taxi industry could be said to have begun in the seventeenth century, under King Charles I, who was concerned about congestion in the City of London. He issued a proclamation restricting the number of hackney coaches to 50 and preventing them from carrying passengers less than three miles:

King Charles I initially forbade that "any hired coach be used or suffered in London" in 1635 [...] Londoners ignored the King and continued hiring any coach they could, often from "innkeepers, brokers and other tradesmen, intruders into the profession of coachmen"—according to the career coachmen who started lobbying for explicit and exclusive rights to "ply for hire" in the streets. Their petitions offered contributions for the Exchequer, streets fit for the Queen, a small army if His Majesty pleased, etc.

Charles soon saw their point. In 1637 he proclaimed that just a few hired coaches were so "very requisite for our Nobility" that "there should be a small competent number allowed for such uses." He followed up shortly with Royal preferences on horse specs and buggy make. After the Interregnum, Charles II issued more licenses, and licensing fees and standards, with preference to "ancient Coachmen or such Coachmen as have suffered for their service and affections to" the King or his late father.³

In 1654 the first Parliament of Oliver Cromwell's Protectorate legislated for the establishment of the Fellowship of Master Hackney Coachmen. Though the Act was only to remain in force for three years, it was the forerunner of every future Act of Parliament concerning hackney carriages, including coaches, horse drawn cabs and taxis until the present day.⁴

The present licensing system is more modern but some of it does date back to the nineteenth century.

There are basically two trades providing driver and car hire: taxis (hackney carriages), and private hire vehicles (PHVs) (minicabs). The main difference between the two is that taxis ply for hire from taxi ranks and can be hired in the street whereas minicabs *must* be pre-booked electronically, by telephone or calling in person at an office.

There is a large market overlay between taxis and PHVs. An increasing proportion of taxis undertake pre-booked and contract hirings, and PHVs are not infrequently booked immediately before hire (e.g. at supermarkets or rail stations), so being used in a way almost indistinguishable from plying for hire. The dividing line between the two trades has therefore become increasingly blurred and there have been an increasing number of calls for clarity.

The present regulatory arrangements governing taxis and PHVs have grown up by historical accident rather than design. The law has

³ "[London's War of the Roads](#)", *Wall Street Journal*, 10 June 2013

⁴ Worshipful Company of Hackney Carriage Drivers, [History of the Company](#) [accessed 10 August 2016]

different rules for taxis and PHVs and varies within and outside London. The trade is continually evolving and technological change has had marked effects, as discussed below.

There were an estimated 76,100 taxis and 166,100 licensed PHVs in England at the end of March 2015.

Overall, there were an estimated 297,600 licensed taxi or PHV drivers in England, of which 55% had PHV-only licences, 21% had taxi-only licences, and 24% had dual taxi/PHV licences.

In the two years to March 2015 strongest growth has been seen in the London PHV which saw a 26% increase in the number of licenced PHVs and 17.5% increase in the number of PHV-only licences issued. Overall TfL licences 103,900 drivers of taxis and PHVs, of which 78,700 hold a PHV only licence.⁵

2.2 England and Wales, outside London

NOTE: The *Wales Bill 2016-17*, currently passing through Parliament, will devolve responsibility for taxi and PHV licensing to Welsh Ministers. For further information see section 3.2 of HC Library briefing paper [CBP7617](#).

The licensing conditions that are applied to taxi and PHV drivers and the local conditions of vehicle fitness are for each local licensing authority to decide, so can vary considerably from area to area. Licensing authorities are entitled to charge a 'reasonable' fee to cover the costs of administration and issue of a licence:

... a district council may demand and recover for the grant to any person of a licence to drive a hackney carriage, or a private vehicle, as the case may be, such a fee as they consider reasonable with a view to recovering the costs of issue and administration and may remit the whole or part of the fee in respect of a private hire vehicle in any case in which they think it appropriate to do so.⁶

Taxis/hackney carriages

A taxi driver has to satisfy two licensing bodies: the Driver and Vehicle Licensing Agency (DVLA) and the local authority. Drivers need an ordinary driving licence covering category B which allows them to drive vehicles up to 3.5 tonnes and with up to eight passengers. In addition a driver needs a taxi driver licence from the local authority.

In England and Wales, outside London, taxis are licensed mostly by district councils ('licensing authorities') under the [Town Police Clauses Act 1847](#) or that Act as amended by the [Local Government \(Miscellaneous Provisions\) Act 1976](#). Authorities must licence taxis and their drivers. In granting a taxi driver's licence the authority is required to satisfy itself that the applicant is a 'fit and proper' person. This expression is not defined in statute and its interpretation is for each

⁵ DfT, [Taxi and Private Hire Vehicle Statistics: England 2015](#), 25 August 2015

⁶ section 53(2) of the [Local Government \(Miscellaneous Provisions\) Act 1976](#), as amended

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council to decide. Authorities may make byelaws covering such matters as fares and taxi ranks.

A number of licensing authorities throughout England and Wales have adopted **conditions of fitness** identical or similar to those imposed in London and only allow drivers and vehicles that meet them to be licensed in their areas. This can involve:

- a criminal record check;
- a comprehensive topographic examination;
- a medical;
- a driving test; and/or
- a check on the financial standing of prospective proprietors.

There is no statutory requirement for local authorities to carry out a **criminal record check** before issuing a licence to a taxi driver. As they are, however, required to ensure that the applicant is a 'fit and proper person', many authorities do, in fact, require such a check. Section 47 of the [Road Traffic Act 1991](#) gave licensing authorities a power to check an applicant's background with the police. Now they rely on the [Disclosure and Barring Service \(DBS\)](#) rather than on local police forces to supply criminal record information about applicants.

In addition, many licensing authorities outside London have decided to insist on the **medical requirements** of the Group 2 licence for all taxi drivers.⁷ It is up to the individual authority to decide on the requirements that a driver must meet and it is responsible for determining the standards, including medical requirements, to be applied to taxi drivers in their areas, over and above the driver licensing requirements.

Some licensing authorities have introduced a **special taxi/PHV driver test**. This is a scheme administered by the Driver and Vehicle Standards Agency (DVSA).⁸ Leeds council approached what was then the Driving Standards Agency (DSA) in 2001 to see if they could arrange a vocational test for their taxi and PHV driver applicants. The DSA then advertised the scheme to other areas and it now administers the scheme nationwide. The test [costs](#) between £79 and £113 depending on the type of test and when it is administered. Any applicant who fails may retake the test.

Licensing authorities also set **standards for vehicles** licensed in their areas. Some of the larger authorities stipulate that only wheelchair accessible vehicles will be licensed (for more information see section 3, below). The majority of taxis outside London remain, however, saloon cars. Section 47 of the 1976 Act allows a licensing authority to attach to the grant of a licence for a hackney carriage any conditions that the district council may consider 'reasonably necessary' (such as number of

⁷ for more details on medical requirements, see HC Library briefing paper [SN387](#)

⁸ DVSA, [DVSA taxi driving test](#) [accessed 10 August 2016]; DVSA was established in November 2013 following the merger of the Driving Standards Agency (DSA) and Vehicle and Operator Services Agency (VOSA)

seats). Any person aggrieved by any conditions attached to the licence may appeal to a Magistrates' Court under section 47(3).

Local licensing authorities have the power to set maximum **fares** under sections 65 and 66 of the 1976 Act, as amended, and most do. The Government advises that fare scales should be set with a view to practicality and regularly reviewed.⁹

Private hire vehicles/minicabs

A private hire vehicle (PHV), or 'minicab', is defined in section 80 of the 1976 Act as:

... a motor vehicle constructed or adapted to seat [fewer than nine passengers], other than a hackney carriage or public service vehicle [or a London cab] [or tramcar], which is provided for hire with the services of a driver for the purpose of carrying passengers

This definition specifically excludes taxis and buses but does not make any distinction between chauffeur-type services and conventional PHV services. Exemptions from licensing permitted under the 1976 Act are listed under section 75, they include vehicles used for weddings and funerals.

PHVs are **not permitted to ply for hire in the streets, or at a rank**, like a taxi: they can only be hired through an operator, who usually controls their PHVs by means of radios. The owner of a PHV is usually referred to legally as its 'proprietor'; in practice most PHVs are owner-driven.

PHV drivers and operators are subject to licensing if a licensing authority has adopted Part II of the 1976 Act or has similar provisions contained in a local Act. About 95 per cent of councils, including all the larger ones, have adopted the provisions. There is no control on the **fares** that may be charged. As PHVs have to be booked in advance, the customer is expected to agree the fare at the time of booking.

PHV **drivers** need an ordinary driving licence covering category B, which allows them to drive vehicles up to 3.5 tonnes and with up to eight passengers, and must also be a 'fit and proper' person. PHV drivers can be subject to the same criminal record checks as taxi drivers and a few councils insist on the same topographical knowledge tests as those required for taxi drivers. Most licensing authorities also require medical certificates. Again it is for the licensing authorities to decide who is a 'fit and proper person' as it is not defined in legislation.

For a number of years the Department for Transport and the Home Office has issued guidance to licensing authorities outside London on licensing taxi and PHV drivers with **criminal records**.¹⁰ The most recent guidance, issued in March 2010, states:

In considering an individual's criminal record, local licensing authorities will want to consider each case on its merits, but they should take a particularly cautious view of any offences involving violence, and especially sexual attack. In order to achieve

⁹ DfT, [Taxi and private hire vehicle licensing: best practice guidance](#), 2 March 2010, para 52

¹⁰ e.g. Department of Transport circular 2/92 and Home Office circular 13/92

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consistency, and thus avoid the risk of successful legal challenge, local authorities will doubtless want to have a clear policy for the consideration of criminal records, for example the number of years they will require to have elapsed since the commission of particular kinds of offences before they will grant a licence.¹¹

In terms of **vehicles**, section 48 of the 1976 Act states that before granting a licence for a vehicle to be used as a PHV, the licensing authority must be satisfied that the vehicle is:

- suitable in type, size and design for use as a PHV;
- not of such design as to lead any person to believe the vehicle is a hackney carriage;
- in a suitable mechanical condition;
- safe; and
- comfortable.

2.3 London

Taxis/hackney carriages ('black cabs')

There are two types of London taxi driver licence: All London/Green Badge, of which in 2014 there were around 22,000 drivers, and Suburban/Yellow Badge drivers, of which there were around 3,700.¹²

[Transport for London \(TfL\)](#) licenses London taxis and taxi drivers under the [Metropolitan Public Carriage Act 1869](#) and the *London Cab Order 1934* (SI 1934/1346). The 1934 Order, as amended, is the main legislative base for the present licensing regime. Delegated authority for day-to-day licensing operations is carried out by the London Taxi and Private Hire Office, formerly the Public Carriage Office (PCO). The Office is responsible for ensuring that taxi drivers, proprietors and vehicles meet the standards specified by the Mayor of London.

TfL sets **fare** levels and approves fees for driver and vehicle licences. The [taxi fare tariffs](#) are set in accordance with a formula devised by TfL, following consultation with the taxi trade and others, including [London TravelWatch](#).

The **requirements for drivers** include a minimum age limit of 21 years (there is no upper age limit); meeting the Group 2 standard of medical fitness to drive; criminal records and financial standing checks; and the Knowledge of London test.¹³ TfL has a duty to ensure it grants licences only to people who are 'fit and proper' to drive a taxi.¹⁴ An applicant may invite the licensing authority to reconsider a decision to refuse a licence or appeal the decision direct to Horseferry Road Magistrates' Court.

Vehicles for use as taxis in London have to satisfy the metropolitan Conditions of Fitness. These prescribe, for instance, a turning circle of 8.535 metres, a partition separating passenger from driver, an overall length of no more than 5 metres, and a flat floor in the passenger

¹¹ op cit., [Taxi and private hire vehicle licensing: best practice guidance](#), para 59

¹² TfL, [Suburban Taxi Licensing Consultation](#), 14 February 2014, p5

¹³ for details, see: TfL, [Apply for a taxi driver licence](#) [accessed 10 August 2016]

¹⁴ Article 25 of the 1934 Order

compartment for which there are minimum height limits. In addition, an approved taximeter must be fitted. All new taxis are required to be constructed to accommodate a person in a wheelchair in the passenger compartment. No vehicle over 15 years of age will be licensed. Licences are valid for one year.¹⁵

In November 2015 Transport for London announced that it would take forward proposals requiring all London taxis to accept **card payments**, including contactless, from October 2016.¹⁶ This was legislated for in the *London Cab Order 2016*, which amends the *London Cab Order 1934*. Article 4 of the 2016 Order inserts new Article 31A into the 1934 Order which provides as follows:

31A Debit and Credit Card Acceptance

(1) Every cab-driver's licence shall be granted subject to a condition that, if so requested by a passenger, the licensee shall accept payment by credit or debit card using a payment device approved by Transport for London.

This comes into effect on 3 October 2016. The TfL website gives further information.¹⁷

In April 2016 the **London taxi trade launched its action plan** for “a faster, smarter and greener future for London's Black Cab”. The plan calls for the following:

- **Modernisation** –a pilot project for ultra-fast wifi, a new zero emissions capable vehicle on the road in 2018 and all taxis taking card payments by October 2016.
- **Better for the Passenger**- make journeys faster by giving Transport for London the power to manage traffic volumes in central London; ensuring the highest quality service; and clarity for the customer in Black Cabs and minicabs.
- **London's Green Revolution** – make zero emissions London a reality by providing the right support and infrastructure to enable drivers to maximise the potential of the next generation Zero Emissions Capable taxi as it launches by 2018.
- **Towards a Sustainable Future** –fully integrate London taxis into London's transport policy, ensuring the 100% accessible service connects with the 24 hour tube and is underpinned by detailed understanding of road and traffic management policy.¹⁸

¹⁵ for details, see: TfL, [Apply for a taxi vehicle licence](#) [accessed 10 August 2016]

¹⁶ TfL press notice, “[Mayor and TfL confirm card and contactless payments will be accepted by London taxis](#)”, 26 November 2015

¹⁷ TfL, [Accepting card payments](#) [accessed 10 August 2016]

¹⁸ London Taxi Company & others, [London's Taxi Revolution: Faster, Smarter, Greener - Action Plan from the Taxi Trade #StayFareMayor](#), 4 April 2016

Private hire vehicles/minicabs

The London minicab trade was unregulated for much longer than the taxi trade or PHVs outside London.¹⁹ The law changed in 1998 and licensing was gradually introduced over the following six years.

In 2000 TfL assumed responsibility for PHV licensing from the Secretary of State under section 254 of the [Greater London Authority Act 1999](#).

The [Private Hire Vehicles \(London\) Act 1998](#) provided for the licensing of minicabs in London and applies to PHV operators, drivers and vehicles. It was a Private Members' Bill introduced by Sir George Young, former Conservative Secretary of State for Transport, with the support of all three main political parties. It did not specify the regulatory system and left considerable discretion to the regulatory authority to decide the details. Such an arrangement was in line with the precedents for the regulation both of London taxis, and of taxis and PHVs outside London.

Under section 1 of the 1998 Act a PHV is defined as:

...a vehicle constructed or adapted to seat fewer than nine passenger seats which is made available with a driver to the public for hire for the purpose of carrying one or more passengers, other than a licensed taxi or a public service vehicle.²⁰

The operator, driver and vehicle licensing requirements were introduced in stages between October 2001 and March 2004.²¹

TfL requires PHV **drivers** to:

- be at least 21 years of age;
- hold a full GB, NI or EEA driving licence that is at least three years old;
- have the right to live and work in the UK;
- be of good character (established through an 'enhanced' criminal records check);
- meet the Group 2 medical standards; and
- undertake a topographical skills assessment.²²

Vehicles licensed as PHVs by TfL must be no older than five years and meet the Euro 4 standards for emissions at time of licensing (for new

¹⁹ see, e.g. DoT, *Taxis and PHVs: a consultation paper on the future of the taxi and private hire services in England and Wales*, October 1993; see also: Transport Committee, *Taxis and Private Hire Vehicles* (fourth report of session 1993-94), HC 239, 30 March 1994

²⁰ there was some concern over the interpretation of the definition, for full details, see: DfT, [Changes to Taxi and Private Hire Vehicle Legislation in the Road Safety Act 2006](#), 28 February 2007, paras 10-13; legislated for in the *Private Hire Vehicles (London) (Transitional Provisions) (Amendment) Regulations 2007* ([SI 2007/3453](#)) which came into force on 31 December 2007

²¹ *Private Hire Vehicles (London) (operators' licences) Regulations 2000* ([SI 2000/3146](#)); the [Private Hire Vehicles \(London PHV Driver's Licences\) Regulations 2003](#); and the [Private Hire Vehicles \(London PHV Licences\) Regulations 2004](#)

²² for details, see: TfL, [Apply for a private hire driver licence](#) [accessed 10 August 2016]

licenses) or be no older than 10 years at time of licensing (for existing licensees).²³

In March 2015 TfL published for **consultation a review of PHV regulations**. This looked at several issues, including: the complaints process; operating centres; customer information; an English language requirement for drivers; and driver training.²⁴ In September TfL published further proposals for consultation²⁵ and in March 2016 the TfL Board approved the following changes:

- More robust 'hire and reward' **insurance** requirements that will mean a policy has to be in place for the duration of the vehicle licence, including when the vehicle is presented for inspection to TfL;
- A formal **English language** requirement for all drivers;
- A fare estimate for customers in advance of their journey;
- The provision of driver and vehicle details to customers, including a photo of the driver, before the start of each journey where customers are able to receive this information;
- Private hire operators will be required to ensure that customers can speak to someone in the event of a problem with their journey; and
- Requiring operators to keep improved records and provide driver and vehicle information to TfL regularly to make enforcement easier and more effective.²⁶

These changes came into force on 27 June following amendment of the *Private Hire Vehicles (London PHV Licences) Regulations 2004*.²⁷ The English language requirement takes effect from 1 October 2016; it requires applicants to present a valid English language certificate with a B1 level of English on the Common European Framework (CEFR).²⁸

In August 2016 it was reported that Uber had urged TfL to reconsider the insurance and English requirements.²⁹

Emissions

In summer 2015 TfL consulted its plans for an [Ultra Low Emission Zone \(ULEZ\)](#), to be launched in central London on 7 September 2020.³⁰ In October 2015 it announced its decision to go ahead with the introduction of a ZEC (zero emission capable) requirement for all taxis licensed for the first time from 1 January 2018. A voluntary decommissioning scheme for taxis over 10 years old will be introduced

²³ for details, see: TfL, [Apply for a private hire vehicle licence](#) [accessed 10 August 2016]

²⁴ TfL, [Private Hire Regulations Review Consultation](#), 27 March 2015

²⁵ TfL, [Private Hire Regulations Review: Response to Consultation and further Proposals](#), 30 September 2015

²⁶ TfL press notice, "[TfL Board approves new plan to modernise London's private hire industry](#)", 18 March 2016

²⁷ all available on the [TfL website](#) [accessed 10 August 2016]

²⁸ TfL, [Changes to private hire regulation](#) [accessed 10 August 2016]; the standard is explained further on the [Exam English](#) website [accessed 10 August 2016]

²⁹ "[Uber urges TfL to drop plans to make drivers do written English test](#)", The Guardian, 9 August 2016

³⁰ TfL, [Consultation on updated ULEZ proposals for taxis and Private Hire Vehicle licensing](#), 1 July 2015

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and purchasing grants to assist in the purchase of ZEC taxis will also be available.

For PHVs, from 1 January 2020 all vehicles under 18 months old and licensed for the first time will have to be ZEC. To clean-up the PHV fleet in readiness for this change, all PHVs licensed for the first time between 1 January 2018 and 31 December 2019 (regardless of age) must be either Euro 6 (diesel/petrol) or a Euro 4 petrol-hybrid. Older private hire vehicles (over 18 months) will need to be Euro 6 (petrol/diesel) when licensed for the first time between 1 January 2020 and 31 December 2022, with the intention that all vehicles granted a PHV licence for the first time after 1 January 2023 must be ZEC, regardless of age.³¹

The taxi trade is concerned about the cost of these new requirements for black cabs.³²

In March 2015 the Government announced that £25 million had been set aside for the Greater London Area to help taxi drivers cover the cost of upgrading to a greener vehicle. All taxis would also qualify for the Government's plug-in car grant.³³ TfL plans to offer grants of up to £8,000 towards the purchase of a ZEC taxi and a claim amount of up to £5,000 for decommissioning an older vehicle, both to run from 2017 until 2020.³⁴

Also in March 2015 Geely's announced plans for a new £250 million state of the art facility to produce the next generation of low-emission London Black Taxis. This included a £17 million contribution from the government's Regional Growth Fund to build the facility, "which will create 1,000 local jobs and ensure the London black taxi continues to be designed, developed and made in the UK".³⁵

Taxi ranks

In February 2015 TfL published a Taxi Rank Action Plan. The Plan set out plans to expand the network of 500 taxi ranks that TfL has appointed, with £600,000 funding to further increase the number of ranks by 20% by 2020. It also looked at helping suburban taxis by exploring the possibility of creating more Island Ranks - that allow suburban drivers to pick up passengers on the edge of their licensed area. TfL has established seven Island Ranks, including Finsbury Park, Putney Station and Garrett Lane, and plan to introduce more - informed by the strategic review of rank provision.³⁶

³¹ *ibid.*, updated 26 October 2015

³² see, e.g., LCDC, [London Cab Drivers Club response to TfL Ultra Low Emission Zone Consultation](#), 26 November 2015

³³ DfT press notice, "[Black taxis go green with £45 million government investment](#)", 26 March 2015

³⁴ *op cit.*, [Consultation on updated ULEZ proposals for taxis and Private Hire Vehicle licensing](#)

³⁵ *op cit.*, "[Black taxis go green with £45 million government investment](#)"

³⁶ TfL press notice, "[Mayor and TfL take action to boost taxi trade](#)", 25 February 2015

2.4 Enforcement

There are a number of offences associated with taxi and PHV licensing and operations, largely enforced by local licensing authorities. The Law Commission explained:

Under current law, responsibility for enforcement of the taxi and private hire licensing regime lies with the licensing authority that issued the relevant licence. In particular, authorities have powers to suspend or revoke licences, or to refuse to renew them. Licensing authorities can also bring criminal charges against a suspected offender. Where breaches of licensing conditions also constitute offences, the police can also take enforcement action. Crucially, licensing officers are unable to undertake enforcement against vehicles, drivers and operators licensed in another area.³⁷

The Government's guidance to licensing authorities states that they should actively seek out operators who are evading the licensing system. It acknowledges that resources devoted by licensing authorities to enforcement will vary according to local circumstances (e.g. if there is a particular problem with touting). It recommends that:

... it is desirable to ensure that taxi and PHV enforcement effort is at least partly directed to the late-night period, when problems such as touting tend most often to arise [...] Some local licensing authorities employ taxi marshals in busy city centres where there are lots of hirings, again perhaps late at night, to help taxi drivers picking up, and would-be passengers queuing for taxis.³⁸

It also highlighted the change to the law in 2007 which permits licensing authorities to suspend or revoke a taxi or PHV driver's licence with immediate effect on safety grounds.³⁹

In its 2014 report, the Law Commission recommended that enforcement powers should be improved in the following areas:

- a new power for licensing officers to stop licensed vehicles;
- touting;
- power to impound vehicles;
- fixed penalty notices; and
- cross-border enforcement.⁴⁰

The issue of cross-border hiring and its enforcement is examined in more detail in section 3.2, below.

³⁷ op cit., [Taxi and Private Hire Services](#) (Law Com No 347), p180, para 13.2; touting was made a separate criminal offence under section 167 of the [Criminal Justice and Public Order Act 1994](#), as amended, and is enforceable by the police

³⁸ op cit., [Taxi and private hire vehicle licensing: best practice guidance](#), p20, paras 85-6

³⁹ section 52 of the [Road Safety Act 2006](#)

⁴⁰ op cit., [Taxi and Private Hire Services](#) (Law Com No 347), p180, para 13.3

3. Law Commission report, May 2014

In May 2012 the Law Commission published a consultation paper seeking views on a number of proposed reforms to how taxis and PHVs operate, designed broadly to deregulate the industry. The proposals included:

- national minimum safety standards;
- removing geographic operating restrictions on PHVs;
- bringing the regime in London into line with the rest of England and Wales;
- removing local quality restrictions;
- increasing enforcement powers; and
- removing licensing exemptions for special vehicles like wedding and funeral cars.⁴¹

The Commission also sought views on miscellaneous items such as a new category of wheelchair accessible vehicles; improving the enforcement powers of licensing officers; and the idea of a new 'peak time' taxi licence that could only be used at particular times of day as decided by the licensing authority.⁴²

The Commission published its final report and a draft bill on 23 May 2014. The main recommendations in the report were as follows:

- **Retention of the two tier system** that distinguishes between taxis and PHVs on grounds of consumer choice and appropriateness (a single system would lead to over or under-regulation);
- **Significant changes to the legal distinction between taxis and PHVs** on the grounds that the current system relies heavily on the imprecise concept of 'plying for hire', which is not defined in statute and has become the subject of a body of case-law that is not wholly consistent;
- **Freeing up cross-border working for PHVs** so that operators would no longer be limited to using drivers and vehicles from their own licensing area or restricted to only inviting or accepting bookings within that licensing area;
- **A single consolidated legislative framework** throughout England and Wales, including London, and applying to any vehicle carrying one or more passengers, where the vehicle and driver have been hired for that purpose, excluding transport provided as part of a wider service (e.g. hotel courtesy cars or by carers) and transport provided in connection with weddings and funerals. Stretch limousines, pedicabs and other novelty vehicles would be brought within private hire regulation;
- **Common national standards** for vehicles, drivers and dispatchers determined by the Secretary of State further to a statutory consultation with specified stakeholders including the

⁴¹ Law Commission, [Reforming the law of taxi and private hire services: summary](#), May 2012, pp2-3, para 1.9

⁴² *ibid.*, para 1.10

trades, regulators and disability groups. Licensing authorities would retain responsibility for issuing licences and for enforcement and could supplement the national standards with local conditions for taxis only;

- **New criminal offences** specific to the trades involving the abolition of a number of out of date offences; replacing them with a more streamlined set of offences contained in the draft Bill;
- **Controls on transferability of licence plates** in areas introducing new quantity restrictions, though transfers would continue to be permitted in areas where quantity restrictions are currently in place;⁴³
- **Improved equality and accessibility** by requiring all drivers to undergo disability awareness training and giving licensing authorities the power to introduce a new duty to stop when hailed;
- **Enhanced powers for licensing officers**, including granting them powers to stop a licensed vehicle on a road, without the need for a police officer to be present; to impound vehicles for touting; and to issue a fixed penalty notice to a person whom they have reason to believe has breached any provision in national standards. These powers would also be exercisable in relation to out-of-area vehicles; and
- **A uniform hearings and appeals system** involving a standardised procedure for statutory appeals across England and Wales (including London) for all forms of licence and irrespective of whether the decision challenged is a refusal of an application for a licence, a suspension or a revocation. In line with the current London model, applicants should be able to require the licensing authority to reconsider its original decision, the second stage in the statutory appeal process being an appeal to the magistrates' court, with a further right of appeal to the Crown Court.⁴⁴

The Commission also published an impact assessment for the draft Bill. The monetised costs and benefits of the Commission's proposals given in the impact assessment were £10.99 million in total costs (NPV) and £252.87 million in total benefits (NPV). Costs included things like training of licensees and licensing officers; and displaying complaints information while benefits include things like reduced regulatory burden; reduced driver assaults; improved safety standards; and reduced enforcement costs.⁴⁵

The Government has not yet issued its formal response to the report or indicated that it would bring forward the Commission's proposals, set out in their draft Bill. As there were no plans to bring forward a Taxi Bill in the final session of the 2010 Parliament, the Government included three measures in what is now the *Deregulation Act 2015* (see below). Most recently, when asked about this issue in November 2015, the Transport Minister, Andrew Jones, said:

⁴³ for more information on the detail of these measures see HC Library briefing paper [SN2772](#)

⁴⁴ op cit., [Taxi and Private Hire Services](#) (Law Com No 347), pp4-10; a copy of the draft Bill can be found at the back of the report, beginning on p214

⁴⁵ Law Commission, [Taxi and private hire services](#) (IA No: LAWCOM0033), 23 May 2014

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A single legislative framework for taxis and private hire vehicles throughout England and Wales was one of the recommendations of the Law Commission following their comprehensive review of taxi and private hire legislation.

The Government is continuing to consider the Law Commission's report in its entirety and in line with the protocol that exists between the Government and the Law Commission, the Government will formally respond to the Law Commission and announce its intentions in due course.⁴⁶

⁴⁶ [HC Taxis: Written question – 15469](#), 20 November 2016

4. Deregulation Act 2015

In March 2014 the Government published amendments to what became the [Deregulation Act 2015](#). The Act applies to England and Wales, but excludes London and Plymouth, where separate legislation exists. It argued that the:

... measures are among the Law Commission's recommendations and rather than undermining or duplicating the Law Commission process, these measures can be regarded as the first steps on a longer path of reform which will be continued in the event that a dedicated Taxi Bill is brought forward.⁴⁷

There were initially three measures in the Bill, but only two made it into the final act:

- to set a standard duration of three years for a taxi and PHV driver's licence and a standard duration of five years for a PHV operator's licence. A lesser period may be specified only if appropriate in a particular case (section 10); and
- to allow a PHV operator to sub-contract a PHV booking to another operator who is licensed in a different licensing district outside London or based in London or in Scotland (section 11).

The third measure, which was removed from the Bill at Lords Committee stage in October 2014, would have allowed people who do not hold a PHV driver's licence to drive a licensed PHV when the vehicle was not being used as a PHV (for example, a licensed PHV driver's partner could use the vehicle for a family outing).

The Opposition and the industry had been vociferous in their opposition to this charge, arguing that it could compromise passenger safety. The Shadow Transport Spokesman, Richard Burden, explained:

... changing who is eligible to drive a private hire vehicle risks increasing the number of unlicensed drivers pretending to be legitimate [...there are] real safety risks that could accompany that. At the moment, we at least have the safeguard that only licensed drivers can drive PHVs, but the Government propose to remove that without giving councils additional enforcement powers. Currently, licensing officers have no power to stop moving vehicles, to prevent drivers from driving off or even to request a driver to reveal their identity.

The Minister will probably say, "Don't worry. It works in London, in the capital." As has been made clear, the situation in London is different. Since responsibility moved to Transport for London, I understand that on-street enforcement is conducted with a police presence, or the police are called on to act when necessary. We simply cannot assume that that would be the case elsewhere.⁴⁸

When she announced the Government's intention to remove the measure, Baroness Kramer said:

Its purpose was to allow the use of private hire vehicles for leisure purposes. Noble Lords will be aware that, outside London, a

⁴⁷ Ministry of Justice, [Report on the implementation of Law Commission proposals](#), HC 1062, 12 March 2015, p16, para 70

⁴⁸ [HC Deb 29 April 2014, cc222-4WH](#)

person who is licensed as a private hire vehicle driver cannot use the family car and therefore has to purchase a second car. At £20,000 or £30,000, or the lease equivalent, that is a barrier which denies people employment. It is an issue that we need to address at some point. It also means in particular that in a number of rural areas there is, frankly, a shortage of private hire cars and taxi services. Bringing in more of those vehicles and their services for local people could be helped by removing this barrier.

However, after the Government listened closely to issues raised about the way in which we have presented this clause, we have decided that listening, as we always do, is important, and concluded that although we can still see arguments for tackling this underlying problem—I think that there is general agreement on that—it would be better done as part of the package of measures recommended by the Law Commission in a broader reform of taxi and private hire vehicle licensing than through this clause.⁴⁹

4.1 Cross-border hiring

As indicated above, section 11 of the 2015 Act makes changes to cross-border hiring, to allow a PHV operator to sub-contract a PHV booking to another operator who is licensed in a different licensing district outside London or based in London or in Scotland. The Minister at the time, Stephen Hammond, explained that the changes would:

... have a huge impact on the ability of operators to meet passenger needs and to grow their businesses, and it should help to make the passenger's experience much more convenient. In short, it is a liberating measure. It will allow the private hire trade to operate in the way that it sees fit, not just in the way that the current legislation dictates ... the onus is on the original operator, who accepts the booking and subsequently passes it on, to retain liability for the satisfactory completion of that journey. It is also clear there is a duty on the operator who takes the booking to keep a full record and to report the full record of that journey.⁵⁰

The changes came into force on 1 October 2015.⁵¹

There are long-standing questions about cross-border hiring: the extent to which it exists, its desirability and how local authorities can properly enforce it.

In its 2014 report, the Law Commission explained that in England and Wales PHV can pick up passengers outside the area in which they hold a licence, although this is not widely understood.⁵² Drivers, vehicles and operators must be licensed in the same area and operators can only invite and accept bookings within that licensing area. The Commission argued that “this hampers them expanding their business to have offices in neighbouring areas, and is increasingly difficult to police given the rise in internet bookings”.⁵³

⁴⁹ [HL Deb 21 October 2014, cc591-2GC](#)

⁵⁰ [HC Deb 29 April 2014, cc226-9WH](#)

⁵¹ via the [Deregulation Act 2015 \(Commencement No 1 and Transitional and Saving Provisions\) Order 2015](#) (SI 2015/994)

⁵² section 21(1) of the [Civic Government \(Scotland\) Act 1982](#) explicitly makes it an offence for PHVs to pick up passengers outside their licensed area

⁵³ op cit., [Taxi and Private Hire Services](#) (Law Com No 347), p5, para 1.23

The Commission therefore recommended ‘freeing up’ cross-border working for private hire services:

Operators should no longer be limited to using drivers and vehicles from their own licensing area; nor should they be restricted to only inviting or accepting bookings within that licensing area. Under our recommended regulatory framework, licensing district boundaries lose much of their importance in relation to private hire vehicles. Although local authorities will continue to administer licences applied for in their area, they will do so on the basis of national standards, which they will have no discretion to vary. Once licensed, providers will be able to work across England and Wales and subject to enforcement action by officers of any licensing authority.⁵⁴

This was accompanied by recommendations about changes to enforcement power. Specifically that formal procedures for cross-border cooperation between licensing authorities be established, including “a power for the licensing authority in whose area the infraction occurred to propose an appropriate sanction to the home authority as well as to suspend a licence temporarily”.⁵⁵

⁵⁴ *ibid.*, p6, para 1.24; for full details see chapter 3

⁵⁵ *ibid.*, p198, para 13.86; the Commission commented that in consultation “this suggestion proved controversial, but a majority of consultees were in favour” [para 13.88]

5. Accessibility

There is no national requirement to make a proportion of taxi or PHV fleets accessible. This is a matter for individual local licensing authorities. Individual councils can – and do – require all or a proportion of vehicles licensed by that authority to be accessible. For example, since 1 January 2000 every taxi operating in London has been required to take wheelchairs and all taxis operating in Edinburgh have been required to be wheelchair accessible since 1 January 1997. Some 175 authorities (61%) required wheelchair accessible vehicles in all or part of their taxi fleet as at March 2015.⁵⁶

An estimated 58% of all taxis in England and Wales were wheelchair accessible (either purpose built or converted) at March 2015 – this proportion has been broadly unchanged since 2009. However, outside London and other metropolitan areas accessibility is low (36% in urban areas and 13% in rural areas).⁵⁷

Questions of accessibility are not only limited to vehicles, but also relate to issues such as taking bookings, ensuring drivers are properly trained and treat disabled people equally, carrying guide dogs and not making extra charges.

5.1 Equality Act 2010

The consolidated legislative framework on transport and disability is set out in Part 12 of the [Equality Act 2010](#).⁵⁸ The 2010 Act made some fundamental changes to the service that disabled passengers can expect from taxi drivers in England and Wales.⁵⁹ In particular, section 165 places duties on taxi drivers who have an accessible vehicle to, amongst other things, carry a passenger while in the wheelchair and not to make any additional charge for doing so. Initially, it was thought that these changes would be gradually introduced between October 2010 and April 2011.⁶⁰

Section 165 essentially replicates section 36 of the [Disability Discrimination Act 1995](#), which was never brought into force. There are a number of reasons why the Labour Government did not bring section 36 of the 1995 Act into force. A February 2009 consultation paper on improving the accessibility of taxis explained the difficulties that the Government encountered:

It is clear from the data that there are certain risks that the Government wishes to avoid in taking this work forward. We do not want to pursue any policies that might lead to fewer wheelchair accessible taxis being available. We do not want to

⁵⁶ op cit., [Taxi and Private Hire Vehicle Statistics: England 2015](#)

⁵⁷ ibid.

⁵⁸ the initial legislative framework was set out in the [Disability Discrimination Act 1995](#), as amended by the [Disability Discrimination Act 2005](#), and the Regulations made under it

⁵⁹ arrangements in Scotland are devolved and the powers to introduce regulations are contained in section 20 of the [Civic Government \(Scotland\) Act 1982](#), as amended

⁶⁰ DfT, [Equality Act 2010 – Taxis and Private Hire Vehicles: Provisions coming into effect in October 2010](#), September 2010 [HC DEP 2010-1717]

create any difficulties for a local licensing authority who may have already adopted a policy of only licensing wheelchair accessible taxis. We also do not want to implement a policy that might mean licensed hackney drivers transfer en masse into the private hire sector or leave the industry altogether. What we do want to achieve is an improvement in technical standards, for more taxis to be available to disabled people so that they can have improved access to jobs, services and social networks, and for the taxi trade to remain viable. We also want to continue to permit local licensing authorities to impose their own conditions to suit their own local circumstances, and for other aspects of the journey to be improved, for example boarding, driver assistance, and interchange with other public transport modes.⁶¹

This paper went into some detail about the possible difficulties, costs and concerns the Government had with this legislation. It seems reasonable to assume that subsequent governments have been grappling with similar issues.

As indicated above, the Coalition Government stated in October 2010 that it would bring section 165 of the 2010 Act into force by April 2011. However, like the previous Government, it clearly found difficulties in doing so.⁶² Most recently, in May 2016, the Transport Minister, Andrew Jones, said that the Government “intends to commence sections 165 and 167 of the Equality Act 2010 this year, and impose this requirement upon both Taxi and Private Hire Vehicle drivers”.⁶³

Under sections 168-171 of the 2010 Act taxis and PHVs have a duty to accept bookings for and to carry passengers with assistance dogs, and not make an extra charge for doing so. However, research published by Guide Dogs for the Blind in May 2016 found that prosecutions are rare and fines are low, with some licensing authorities reporting fines as low as £50 to £100.⁶⁴

More generally, section 29 of the 2010 Act prohibits discrimination in the provision of services. Section 29(2)(a) states that a service provider must not discriminate against a person “as to the terms on which” a service is provided. Discrimination may be either direct or indirect. Direct discrimination is defined in section 13 as a person treating another less favourably than others “because of” a protected characteristic. Disability is a protected characteristic (section 6).

5.2 Law Commission

As indicated above, in May 2014 the Law Commission published the outcome of its review into taxi and PHV licensing law. One of the areas it looked at was accessibility. It made the following recommendations:

- taxi and private hire drivers be required to undergo **disability awareness training** of a standard set by the Secretary of State;

⁶¹ DfT, *Consultation on Improving Access to Taxis*, February 2009, para 2.11

⁶² see, e.g. [HC Deb 16 July 2012, c495W](#)

⁶³ [HC Taxis: Disability: Written question – 36676](#), 10 May 2016

⁶⁴ Guide Dogs press notice, “[Guide Dog owners driven to despair by taxi and minicab drivers who illegally say no to their dog](#)”, 21 May 2016

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- the Secretary of State require information on how to **complain** about taxi and PHV services to be displayed in taxi and PHVs;
- local licensing authorities should **display complaint information** in offices, libraries and on websites;
- licensing authorities conduct an **accessibility review** at three year intervals;
- the Secretary of State require holders of taxi and private hire driver licences and dispatcher licences to **comply with the Equality Act 2010 as a condition of the licence** [to make enforcement easier];
- licensing authorities should reconsider **rank design** to ensure compliance with the 2010 Act;
- licensing conditions should provide that information about the licensing authority and local operators should be provided in **alternative formats**, as well as information about the types of vehicle available in their area; and
- the Secretary of State should have the power to impose **accessibility requirements on large operator/dispatchers**. In particular, the power should permit the setting of quotas of accessible vehicles which must be available to such dispatchers.⁶⁵

The Government is currently considering its response to the report.

⁶⁵ op cit., [Taxi and Private Hire Services](#) (Law Com No 347), chapter 12

6. Plying for hire

The term ‘plying for hire’ is used essentially to distinguish between the regulatory requirements which apply to taxis (which can be hired in the street), and those which apply to PHVs (which must be pre-booked).⁶⁶ The exact definition of the term and what constitutes ‘plying for hire’ is not always clear. The Law Commission explains:

Their exclusive right to ply for hire is thus made the defining characteristic of taxis under the current law, although the term is not defined in the legislation. Picking up passengers at ranks and in response to hailing is generally understood to be at the core of plying for hire, but these activities do not feature in the legislation. Instead, the case law refers to factors such as the “exhibition” of the vehicle, which may indicate plying for hire, its availability to the general public and the “immediacy” of its availability. Parking a vehicle in a public place may or may not amount to plying for hire, depending on an assessment of these factors. The case law is often inconsistent and unclear. Technology has highlighted the indeterminacy of some of these factors by adding new ways for consumers to engage services. Internet bookings for example can be virtually immediate, suggesting taxi-like behaviour, and yet have all the characteristics of a pre-booking, making them compliant with private hire requirements.

Plying for hire without a taxi licence is a criminal offence and is therefore critical in defining what private hire vehicles are not allowed to do.⁶⁷

With that in mind, the Commission had sought views in its prior consultation document on whether the definition of ‘plying for hire’ should be put on a statutory footing. This received near-unanimous support from the industry.⁶⁸ However, in its final report the Commission concluded that a statutory definition “would not be a practical improvement on the current position”. It came to this decision based on advice “from an expert panel composed of distinguished licensing lawyers that we set up specifically for the purpose of discussing reform of ‘plying for hire’”. The main reason for this conclusion was that:

... whether a vehicle is plying for hire in particular circumstances is, as the courts have noted, a matter of fact and degree. No statutory list of factors could be sufficiently determinative to give clear guidance, leaving many of the current grey areas unresolved.⁶⁹

Instead, the Commission decided to focus upon the precondition for lawful transport of a passenger in a PHV – namely pre-booking – and upon improving its enforceability through record-keeping obligations

⁶⁶ section 38 of the *Town Police Clauses Act 1847* and section 4 of the *Metropolitan Public Carriage Act 1869*; in Scotland the definition is slightly different in that a taxi is a vehicle which “is engaged, by arrangements made in a public place between the person to be conveyed in it (or a person acting on his behalf) and its driver for a journey beginning there and then” [section 23 of the *Civic Government (Scotland) Act 1982*]

⁶⁷ op cit., [Taxi and Private Hire Services](#) (Law Com No 347), pp18-19, para 3.7

⁶⁸ ibid., pp19-20, paras 3.9-3.14

⁶⁹ ibid., p20, para 3.15

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imposed on private hire operators. In light of this, the Commission recommended:

- the offences relating to plying for hire should be abolished and replaced with a new scheme of offences, resting on the principal prohibition of carrying passengers for hire without a licence, alongside a new offence making it unlawful for anyone other than a local taxi driver to accept a journey starting 'there and then'; and
- a statutory definition of 'pre-booking' in order to create a clear distinction between the work of a taxi in its licensing area and the work of a PHV.⁷⁰

⁷⁰ *ibid.*, p22, recommendations 2 and 3

7. Taximeters

'Taximeters' are in-vehicle devices that calculate a fare based on distance travelled and time waiting. Outside London, PHVs are not required to have taximeters, but have the option of installing one, while in London PHVs are prohibited from being equipped with a taximeter.⁷¹

Like plying for hire, taximeters are an increasingly controversial area, particularly in London (see below). In its May 2014 report the Law Commission looked at the use of taximeters in PHVs. It concluded that the use of taximeters in PHVs should not be banned, "as we consider that metered pricing may be useful for estimates; and we have heard evidence that consumers may prefer the use of a taximeter where they are not in a position to judge whether the price quoted is fair".⁷²

⁷¹ section 71 of the *Local Government (Miscellaneous Provisions) Act 1976* and section 11 of the *Private Hire Vehicles (London) Act 1998*

⁷² op cit., [Taxi and Private Hire Services](#) (Law Com No 347), p89, para 5.62

8. Disruptive technology

The taxi and PHV industries are facing an era of change and challenge to their established business models due to the market entry of what are called 'disruptive technologies', the most well-known of which is Uber. In its July 2016 report into the digital economy the Commons Business, Innovation and Skills Select Committee described the impact of these sorts of technologies as follows:

Disruptive technologies 'disrupt' the accepted means of delivering a service, which in turn bring tension between disruptors and those businesses being disrupted ... Uber, described as "a software company, a smartphone app, and licensed as a private hire operator", disrupts the London Hackney carriage model and the existing private hire operators [...] The tension between so-called disruptors and disrptees is keenly felt when it comes to regulation. Often digital disruptor businesses do not have to follow the same regulation and compliance as incumbent businesses that are being disrupted, which can be seen as giving the new disruptor an unfair competitive advantage.⁷³

The Committee echoed the view of the Minister that "the imposition of analogue regulations on a digital disruptor should not be done, if it is only to protect an existing industry" and said that regulation should be focused instead on protecting customers and ensuring that market power is not abused. For example, customers should "have clear evidence and reassurance that Uber drivers and their cars have been checked fully".⁷⁴ The Committee concluded by recommending that the Government "sets out clearly its key objectives for the regulation of disruptive change. Our view is that they should promote productivity, innovation, and customer choice and protection".⁷⁵

8.1 Technology platforms for taxis

The taxi industry is making efforts to use new technology to adapt their business model and to widen services and choice to customers.

There are some in the industry who believe that they have to adapt quickly and make new technology work for them in order to save the black cab. Geof Kaley, former chairman of the London Taxi Drivers Association, who has recently founded [Streets of London](#), wrote in January 2016 that "we're convinced it's going to take all of London's taxis to be available via an app because the damage done to street hail is probably irreversible and may get worse".⁷⁶

As indicated in section 2.3, above, the London taxi industry has more broadly championed continued investment in technology from Apps like Gett, Hailo⁷⁷ and CabApp and to increase the number of drivers on

⁷³ BIS Committee, *The Digital Economy* (Second Report of Session 2016–17), HC 87, 18 July 2016, paras 40-41

⁷⁴ *ibid.*, paras 45-46

⁷⁵ *ibid.*, para 50

⁷⁶ "[You must be in it to win it](#)", *Taxi* (no. 359), 12 January 2016, p21

⁷⁷ Hailo is merging with MyTaxi and will be rebranded as such in the UK by mid-2017, see: "Hailo to merge with Daimler's MyTaxi", *Financial Times*, 26 July 2016

Apps. It also wants to see a pilot scheme for fast wifi for passengers in the next 2-5 years.⁷⁸

8.2 Uber in London and the 2015 court case

As indicated above, by far the most political and regulatory interest is in Uber, and in particular its impact on the London taxi and PHV industries. The arguments for and against it are well known by now.⁷⁹ As indicated in section 2.3, above, as a licensed PHV operator in London it is facing new rules with regards to insurance, English language requirements for its drivers, record keeping and other matters. Concerns have also been expressed about its employment and tax practices.⁸⁰

However, the most controversial aspect of its operations has been the question of whether its drivers' use of their smartphones constitutes a 'taximeter' and is therefore illegal (see section 7, above). Following much delay,⁸¹ the case came to court in October 2015.

Transport for London (TfL) sought a declaration that the Uber's PHVs were not equipped with a taximeter in contravention of section 11 of the *Private Hire Vehicles (London) Act 1998*. The Administrative Court, in granting a declaration, held that Uber's PHVs were not equipped with a taximeter as defined by section 11(3) of the 1998 Act. The driver's smartphone with a driver's app was not a device for calculating fare by itself or in conjunction with a server and, even if it was, the vehicle was not equipped with it.⁸²

TfL said that "with legal certainty established over taximeters, we will continue to work hard with all of our stakeholders to deliver taxi and private hire services which meet the needs of modern London".⁸³ Uber welcomed the decision, calling it "a victory for common sense" and meant that the company would not "have to make any unnecessary changes to the way Uber works today. People will still be able to push a button and book a ride—without being forced to do something like having to type in their destination every time".⁸⁴ The London Taxi Drivers' Association said "The law is an ass" and that it was "such a ludicrous decision that our lawyers have already launched an appeal ... where hopefully, we can find a judge with a common sense solution to a very simplistic question. Does the Uber smartphone calculate the fare by a combination of time and distance? There can be only one answer, and any judgement that declares otherwise is flawed and wrong".⁸⁵

⁷⁸ LTDA, *Faster, Smarter, Greener: An Action Plan from the Taxi Trade*, April 2016, p4

⁷⁹ see, e.g. LATC, *Future proof: Taxi and Private Hire Services in London*, December 2014

⁸⁰ see, e.g. "Drivers battle Uber over employment rights", *BBC News*, 20 July 2016 and "Uber pays £22,000 tax on £866,000 UK profit", *The Guardian*, 20 October 2015

⁸¹ see *Letter from TfL Commissioner to Board members*, 15 January 2015

⁸² *Transport for London v Uber & others*, [2015] EWHC 2918 (Admin), 16 October 2015

⁸³ TfL press notice, "High Court declares that smartphones used in private hire vehicles are not taximeters", 16 October 2015

⁸⁴ Uber press notice, "High Court rules that Uber's app is not a taximeter", 16 October 2015

⁸⁵ "Judge rules: 'It's not a meter!'", *Taxi* (no. 354), 20 October 2015

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