

Taxis - An Overview

Introduction

Taxis account for around 600 million journeys in Great Britain each year, and are most commonly used by younger people, those on lower incomes without access to cars, and women between the ages of 16 and 20.

According to the Department for Transport statistics, there are around 69,000 taxis licensed in England in 2007, an increase of 8 per cent since 2005 (including 8000 licensed vehicles in Wales alone). Over 264,000 individuals hold drivers licences issued by over 350 local licensing authorities in England and Wales, making it a significant UK industry.

Everyone knows what a taxi is:

It is a vehicle used (occasionally or regularly) by the majority of the population to transport them from point A to point B for a variety of reasons and purposes. These include: journeys to work and school; transport to and from railway stations, bus stations and airports for business and leisure purposes; shopping trips; transport to and from cinemas, theatres, pubs, nightclubs and other evenings out and so on. These journeys can take place at any time of the day, but a great many take place late at night.

What is not widely understood is that there are actually two types of vehicle which can undertake similar roles in transporting passengers, licensed under different legislation, with each having specific entitlements and restrictions on use. They are generally referred to as "taxis", but legally they are split into hackney carriages and private hire vehicles.

In Greater London hackney carriages and private hire vehicles are licensed and controlled by the Public Carriage Office ("PCO") which is part of Transport for London ("TfL") which ultimately is the responsibility of the Mayor of London. In the rest of England and Wales hackney carriage and private hire licensing is the responsibility of the local council (district or unitary authority) for the area. The legislation which applies within Greater London is different from, but similar to the legislation which applies outside Greater London.

This fact sheet summarises the position outside Greater London.

Hackney Carriages

Hackney carriages have been licensed in some areas for almost two centuries, but standardised hackney carriage licensing dates from the introduction of the Town Police Clauses Act 1847. Certain local authorities could use the provisions of this Act to regulate hackney carriage use within their

area. It became available to all urban districts in 1889, all boroughs and county Borough's in 1933 and to every district and unitary authority in 1972.

Hackney carriage licensing did not become mandatory until 1987. From that date all hackney carriages in England and Wales had to be licensed by the district or unitary authority (hereafter referred to as the "local authority").

The legislation requires a licence to be held in respect of both the vehicle and the driver of a hackney carriage, and those licences must be granted by the same local authority. Before such a licence is granted the local authority must be satisfied that the person is 'fit and proper' to hold a licence and the vehicle is 'safe and suitable' to for use as a hackney carriage.

Licensed hackney carriage vehicles can stand or ply for hire, and also be hailed within the district in which it is licensed. This means that a prospective passenger can hail a passing hackney carriage or approach one when it is parked on a hackney carriage rank or at any other place, and asked to be taken to a specified location. If the destination is within the district of the authority in which the vehicle is licensed, the driver must accept the hiring and carry the passenger unless he has a reasonable excuse not to.

Hackney carriages can carry passengers on journeys which end outside the district in which they are licensed, but such hirings are discretionary and the driver **can refuse without any requirement to have a reasonable excuse**. If such a hiring is accepted, it can be charged at a rate over the regulated fare provided that agreement is struck between the driver and prospective passenger before the hiring commences.

As well as plying or standing for hire and responding to hailings, a hackney carriage can be used for pre-booked journeys. Such a booking can be made directly with the driver, or alternatively via a booking agent. Pre-booked hackney carriages can accept bookings for journeys which start outside the district in which the vehicle is licensed, and such journeys do not have to pass through or end in the district in which the vehicle is licensed.

It is possible for the local authority to limit the number of hackney carriage licences which it will issue, and at present some 28% of local authorities do limit their hackney carriage numbers. Such a limit can only be justified under the Transport Act 1985 if the local authority is satisfied that there is **no significant unmet demand** for the services of hackney carriages within the district.

Local authorities can also specify the type of vehicle that can be used as a hackney carriage, and also whether or not some or all of the hackney carriages that they licence must be capable of carrying wheelchair-bound passengers who remain in their wheelchair for the duration of the journey.

Private Hire Vehicles

The growth of the use of "minicabs" in the 1960s led to calls for their regulation, and a number of local authorities had local Acts of Parliament that allowed them to licence what were subsequently known as private hire vehicles.

National legislation appeared in the form of the Local Government (Miscellaneous Provisions) Act 1976, which allowed local authorities to choose to licence private hire vehicles in their area from 1977. However these provisions are "adoptive", and it was many years before every local authority had adopted the provisions, but now all local authorities licence private hire vehicles.

As with hackney carriages, both the private hire vehicle and the driver must be licensed by the same local authority. Before such a licence is granted the local authority must be satisfied that the vehicle or person is suitable and safe to be licensed.

The principal distinction between a private hire vehicle and a hackney carriage is that a private hire vehicle CANNOT stand or ply for hire or be hailed. It MUST be booked in advance. A further distinction requires that bookings are made via a third licensee, who is a private hire operator. The private hire operator must be licensed by the same local authority that licences the private hire vehicle and private hire driver, and the local authority must be satisfied that the operator is suitable to hold such a licence.

The operator is required to maintain records of bookings taken (hackney carriage drivers do not have to keep these records). These serve two purposes:

- Provision of evidence to demonstrate that a booking had been made, and that a private hire vehicle which picks passengers up is not unlawfully plying for hire;
- Provision of journey records can be extremely useful in cases of complaint.

A private hire vehicle can be booked to pick up from any place and travel to any destination and they are not limited to picking passengers up in the district in which they are licensed. .

Local authorities may NOT limit the number of private hire vehicles that they will licence, nor do they have any control over the fares that passengers are charged.

Generally local authorities do not insist on particular types of vehicle for private hire use, but before a licence is granted the local authority must be satisfied that the vehicle is suitable and safe and **does not resemble a hackney carriage**.

Driver licences

Driver licences are required to authorise individuals to driver hackney carriage and private hire vehicles - 2 separate licences although many local authorities will issue a 'dual' licence authorising the individual to driver both types of vehicle.

Individuals must have held a full DVLA or equivalent driving licence for at least 12 months in order to be eligible for a drivers licence, and the licensing authority must be satisfied that the individual is 'fit and proper' before granting the licence(s).

A number of checks will be included in the licence application process including:

- Criminal record checks
- Medical fitness checks

Other checks / tests may also be required such as:

- DVLA checks
- Driving assessment tests
- Local knowledge tests

Licensing authorities may also require drivers to demonstrate their competency in their industry by requiring or providing customer skills or disability awareness training, as well as promoting vocationally related qualifications.

Conclusions

It can be seen that whilst there are distinctions between the two types of vehicle, there are obvious similarities. The purpose of both types of vehicle is to take passengers from a particular location to their desired destination in a vehicle that is comfortable and safe and in a manner which is convenient.

The current legislation for both hackney carriages and private hire vehicles is antiquated. Although there are a number of provisions relating to hackney carriages contained in the Local Government (Miscellaneous Provisions) Act 1976, the principal legislation relating hackney carriages dates from 1847 and was designed for horse-drawn carriages. Private hire vehicles are controlled by 20th-century law, but that law still predates what were then unforeseen advances in communication such as mobile telephones and the Internet.

Licensing is a local function – and this leads to discrepancies and inconsistencies between local councils. Very different requirements may be placed on businesses purely as a result of their business location.

The courts have struggled to apply the existing legislation to modern circumstances, and there have been judicial calls for reform. As long ago as 1948 Lord Chief Justice Goddard expressed serious concern over the deficiencies in hackney carriage legislation He said:

“Some of the sections in these numerous statutes [governing hackney carriages] are obsolete. Many are obscure, [and] are out of date. It is, therefore, not surprising that cab drivers, the police, and magistrates, to say nothing of the general public, have difficulty in ascertaining the law on this subject and make mistakes about it. It would seem that an Act consolidating and amending, and, if possible, simplifying, the law with regard to cabs, is very desirable.” (Hunt v Morgan [1948] 2 All ER 1065 QBD - a case concerning London legislation which is similar in both content and age).

In 1999 Lord Justice Kennedy expressed his view on the state of the law:

‘The facts of this case make it clear that in fairness to private hire operators the provisions of this statute [the Local Government (Miscellaneous Provisions) Act 1976] should be reconsidered by the legislature as a matter of some urgency. . . . The problem is to some extent the result of improved technology since the statute was passed, but the law needs to reflect the current state of technology and not be 23 years behind it.’ (*Murtagh (t/a Rubery Rednal Cars) v Bromsgrove District Council*(1999) Independent, 6 December, QBD.)

“The aim of local authority licensing of the taxi and PHV trades is to protect the public.” That is the view of the Department for Transport (“*Taxi and Private Hire Vehicle Licensing: Best Practice Guidance*” October 2006 paragraph 7) which is supported by all local authorities that licence taxis.

That protection must also recognise the burdens of compliance which are placed upon those involved in the hackney carriage and private hire trade and seek to ensure that the minimum burdens are imposed whilst ensuring the public protection in the widest sense is not only maintained, but continually improved. In some cases, the current law or application of the law stifles or restricts business or business growth.

In December 2009, the Institute of Licensing will commence conducting a nationwide survey to establish how the existing legislation dating from 1847 is working.