

TAXIS ACT (NORTHERN IRELAND) 2008

EXPLANATORY NOTES

INTRODUCTION

1. These Explanatory Notes relate to the Taxis Act (Northern Ireland) 2008. They have been prepared by the Department of the Environment in order to assist the reader in understanding the Act. They do not form part of the Act and have not been endorsed by the Assembly.

2. They need to be read in conjunction with the Act. They do not, and are not meant to be, a comprehensive description of the Act. So where a section or part of a section or schedule does not seem to require an explanation or comment, none is given.

BACKGROUND AND POLICY OBJECTIVES

3. Under the Road Traffic (Northern Ireland) Order 1981, the Department is responsible for the licensing of taxi drivers and public service vehicles. The Department determines the roadworthiness of vehicles and checks the repute of drivers and owners. There is no licensing regime for taxi operators.

4. In November 2002 the Department launched the Review of Taxi Regulation in response to widespread dissatisfaction among the taxi industry, public representatives and consumer organisations about how taxi services were being provided within existing legislative and operational controls. One of the main areas of concern was the extent of illegal taxi activity. The objective of the Review was to make recommendations aimed at creating a more effective and equitable regulatory framework that would promote road and personal safety, improve accessibility and facilitate fair competition in the taxi industry.

CONSULTATION

5. There was extensive consultation on the provisions contained in the Act. In August 2003 the Department issued a discussion document containing initial draft proposals followed, in March 2005, by the publication of a consultation document containing its final proposals.

6. Following that exercise a total of 335 responses were received, representing 77 organisations, taxi businesses and individual drivers. Overall, the proposals were welcomed and recognised as a means both of tackling illegal taxi activity, and of professionalising the industry in order to improve safety, service standards, and consumer protection for all taxi users.

7. The 2005 consultation paper – which included a draft Equality Impact Assessment (EQIA), a draft partial Regulatory Impact Assessment (RIA) and a rural proofing assessment – together with a report summarising the written responses and other representations received, can be found at the Department’s road safety website www.roadsafetyni.org/index/consultations/consultations-past.htm.

8. In August 2006 the Department consulted on a proposal for a draft Order in Council: “The Taxis (Northern Ireland) Order 2006”. This consultation involved the distribution of 1,600 documents to groups in the DOE Equality scheme, relevant taxi, transportation, road safety and consumer interest groups including some 800 known taxi businesses. 17,000 licensed taxi drivers were individually notified of the consultation. In addition, the Department conducted 10 public meetings and held a further 16 meetings with political representatives, taxi associations, vehicle manufacturer/converters and other interested parties.

9. 53 responses were received from key stakeholders including taxis associations, taxi businesses, s75 groups, district councils and political parties/representatives. The Order and the specific measures it would enable, were widely welcomed by both taxis users and taxi businesses and wholeheartedly supported by the Consumer Council and the Inclusive Mobility Transport Advisory Committee.

10. The 2006 consultation paper – which included the draft Order, Explanatory Memorandum, Information Note and Equality Impact Assessment (EQIA) – together with the formal responses can also be found at the Department’s road safety website <http://www.roadsafetyni.gov.uk/Consultations-MainDetails.htm?id=con79>

OPTIONS CONSIDERED

11. Policy options were considered in both the discussion document issued to key stakeholders in 2003 and in the 2005 public consultation paper. The way forward on the package of measures to be given effect by the Act has been determined taking into account the extensive evidence gathered by the Taxi Review, the views expressed throughout the Review in meetings with members of the trade and other stakeholders and in written responses to the public consultations, including the 2006 consultation on the draft Order in Council.

OVERVIEW

12. The Act sets out a new legal framework for regulation of taxis and taxi services. It covers the licensing of taxi operators, drivers and vehicles, fares and taximeters, hiring of taxis at separate fares, enforcement and penalties.

COMMENTARY ON SECTIONS

A commentary on the provisions follows below. Comments are not given where the wording is self-explanatory.

Regulation of Taxi Operators

Chapter 1 introduces the new requirement for a taxi operator to apply for and obtain a taxi operator's licence and imposes duties on licensed operators. In addition to these general requirements Chapter 2 sets out the requirements and duties relating to operating a taxi service at separate fares.

Under section 1 a person is required to obtain an operator's licence if he is to operate a taxi service. It will be an offence to operate without a licence. Section 2 outlines the application process, the form of a licence and provides for an appeal. Much of the detail on requirements of the application and the conditions that may be applied to a licence will be included in regulations made under the Act.

Section 3 imposes a number of duties on the licensed operator and affiliated drivers. The operator must use licensed taxis driven by persons holding a taxi driver licence. He must keep certain records relating to the business including regarding affiliated drivers, bookings and complaints. Subject to prescribed exceptions, an affiliated driver must work for only one licensed operator. He must notify the operator of any booking he accepts. Contravention of any obligation, including keeping false or misleading records will be an offence. Section 4 provides that a licensed operator may only sub-contract a booking to another licensed operator. It will be an offence to subcontract work to a non-licensed operator.

Sections 5 to 11 provide for the hiring of taxis at separate fares. These requirements are in addition to the general requirements set out in Chapter 1. An operator will be allowed to operate a taxi service at separate fares in three ways: in compliance with a Departmental taxi-sharing scheme made by order under section 6, by advance booking and consent of passengers under section 7 and when the operator is so authorised under his operator's licence in accordance with section 8. Section 9 requires an applicant for a licence authorising separate fares to provide certain specified information about the services the applicant is to provide. Any contravention of these provisions will be an offence.

Section 10 sets out the factors that the Department will take into consideration when deciding whether to authorise an operator under section 8 to operate a service at separate fares including the suitability of routes. An applicant who already holds a road service licence granted under the Transport Act (NI) 1967 or who satisfies other prescribed requirements will not be subject to the requirements of section 10. The Department will consider representations from other licensed operators and certain specified bodies. Section 11 provides for an appeal against the Department's decision.

Regulation of Taxis

Part 2 provides for the regulation of the vehicles used to provide taxi services.

Under section 12 it will be an offence for the driver and taxi operator to use a taxi for hire or reward unless the vehicle has a taxi licence. It will also be an offence for an owner of a taxi to permit it to be used without a taxi licence. Section 13 sets out the application process including the requirement for suitable vehicles and insurance provision. It also provides for an appeal against a decision of the Department.

Section 14 imposes a number of duties on the owner of a licensed taxi including a requirement to present it for a vehicle test, to report any accident that materially affects its safety or performance and to notify the Department of the sale of the vehicle and the subsequent return of the taxi licence. Contravention of any stated duty will be an offence. Under section 15 the Department will issue identification plates, signs (or similar) for each licensed taxi and it will be an offence not to display it on the vehicle.

Sections 16 to 18 regulate taxi fares. The Department may regulate the fixing of maximum fares and other charges related to the hiring of taxis. In doing so it must take into consideration any recommendations made by the General Consumer Council for Northern Ireland. The rates, fares and charges must be displayed in both the taxi and the operating centre. Each taxi will be fitted with an approved taximeter and a device to issue receipts. Regulations will provide for the inspection, testing and sealing of the taximeters. Contravention of regulations relating to regulation of fares, publication of fares, taximeters and failure to display fares or tamper with taximeters will be an offence.

Each taxi will be able to carry a prescribed number of passengers. Anyone exceeding the maximum number will, under section 19, be guilty of an offence.

Section 20 allows the Department to make regulations of a general nature concerning the standards of taxis, the safety and conduct of passengers and the use of taxis.

Section 21 amends the Road Traffic Regulation (Northern Ireland) Order 1997 to provide that the Department for Regional Development may make taxi regulation orders in respect of taxi stands. Such orders will determine the location and use of roads that may be used as taxi stands.

Regulation of Drivers of Taxis

Part 3 of the Act contains provisions for the regulation of taxi drivers.

Under section 22 it will be an offence for a person to drive a taxi unless he has a taxi driver's licence for that class of taxi. The owner of the vehicle and the taxi operator for whom the taxi is being driven will both be guilty of an offence in such circumstances. Section 23 sets out the application process including the requirement for the applicant to be deemed a fit and proper person, to have undergone training and to have passed a test of competence to drive a taxi.

Under section 24, the Department will issue badges and other evidence of identification to each person who has been granted a taxi driver's licence. The badge must be worn and other identification must be displayed at all times unless specifically exempt. Failure to do so will be an offence.

Licences: General Provisions

Part 4 contains provisions of a general nature relating to the different forms of licence required under the Act.

Under section 25 the Department may require a person to provide the application in a form that it deems necessary and it also allows the Department to seek as much information as it deems necessary for dealing with an application for a licence. The provisions of the Act apply to the renewal of a licence as they do in relation to the grant of a licence. Section 26 provides power for the Department to suspend or revoke a licence or to curtail an operator's licence under certain specified circumstances. Section 27 outlines the procedure the Department will follow in taking such action.

Under section 28, an operator may apply for his licence to be varied to record a change in operating centre or the number of taxis that he may operate. An owner or driver may also apply to have their licence varied and all have a right of appeal against any decision not to vary the licence under section 28. The decision to suspend or vary is open to appeal. Where the Department is no longer satisfied that an operating centre meets the necessary requirements, it may suspend or vary an operator's licence under section 29.

Section 30 sets out the services in respect of which the Department may prescribe fees and allows for such fees to be paid by instalments. Section 31 requires licences, certificates of insurance and other documents to be produced for inspection. Failure to do so will be an offence.

Section 32 imposes a duty on a licence holder to return any licence to the Department if the licence has been suspended, revoked or curtailed. An expired licence or a badge, licence plate, sign or disc may have to be returned, if requested by notice. Failure to do so will be an offence.

Section 33 imposes a duty on the Department to keep a register containing details of each licence issued under the Act, which will be available for inspection by the public.

Sections 34 and 35 deal with appeals to magistrates' courts including provisions on time-limits for appealing, notification of right of appeal and the effect of appeal on the decision being appealed.

Section 36 enables the Department to make such further provision in respect of appeals as it considers necessary or expedient by way of regulations.

Enforcement

Part 5 makes provision for the enforcement of the Act.

Section 37 provides for the service of an enforcement notice on a taxi operator who is considered to have failed to comply with certain duties imposed on him by section 3 of the Act. The notice will state the remedial action that is necessary and failure to comply will be an offence. The section also provides for an appeal procedure. Failure to comply with an enforcement notice will be an offence.

Powers of entry and inspection of operating centres for specified purposes are provided to police and authorised officers under section 38. The section also provides for the entry, under warrant, of premises where it is suspected that a person is operating a taxi service without an operator's licence

Section 39 provides power for police and authorised officers to stop and examine licensed taxis and, if necessary, to ensure other arrangements are put in place for the conveyance of the passengers. It will be an offence for a driver to fail to make alternative arrangements for the conveyance of passengers. Section 40 allows the police or authorised officers to stop other vehicles that they have reason to believe are being used to provide taxi services. Such officers may require production of information and documents relating to the use of the vehicle in certain, specified circumstances.

In section 41 police and authorised officers are provided with power to seize and remove a vehicle that he suspects is being used without a proper licence under section 12 of the Act. A vehicle that fails to stop may be seized later and powers of entry to premises are provided for this purpose. Section 42 allows the Secretary of State to make regulations in respect of vehicles and equipment that have been seized and such regulations must be in place before the powers of seizure come into operation.

An offence of soliciting (touting) for taxi services is created in section 43, while section 44 deals with the offence of providing false information in seeking a licence or of forging or altering a licence, plate, disc, badge etc. Any such document may be seized by a police officer or authorised officer. Obstruction of an officer will be an offence under section 45. Failure to comply with a request of an officer or failure to assist or give information or knowingly to make a false statement will also be offences.

Miscellaneous and General

Part 6 provides for a number of general issues that apply to the operation of the Act and for the consequent amendments and repeals.

Under section 49, the Department may make information, held by it for the purposes of the Act, to police constables and support staff along with other prescribed persons. The purposes for which access to the information may be given and the circumstances, in which the information may be further disclosed by those persons, will be determined in regulations made under this section.

*These Notes refer to the Taxis Act (Northern Ireland) 2008 (c.4)
which received Royal Assent on 21 April 2008*

Section 50 enables the Department to publish information about any of the provisions of the Act but before doing so it must take into consideration any recommendations made by the General Consumer Council for Northern Ireland.

Section 51 provides the Department with power to pay grants to persons or bodies that it thinks appropriate in connection with the provisions of the Act. Section 52 provides the Department with power to make regulations on the requirement for training in connection with the provisions of the Act.

Section 54 deals with the application of certain, defined, statutory provisions to taxis to enable the provisions of the Act to take effect. It also provides that the powers to restrict access to, and regulate motor traffic on roads in the area controlled by the Belfast Harbour Commissioners or other similar harbour areas, relates to taxis. A member of the Belfast Harbour Police will have the same powers as a member of the Police Service of Northern Ireland to enforce the provisions outlined in this section.

Sections 55 to 60 are of a general nature including interpretation of words and phrases in the Act and provision for the commencement of the Act.

Schedule 1 contains a list of the offences under the Act and the penalties for each. These are to be inserted into Schedule 1 to the Road Traffic Offenders (Northern Ireland) Order 1996.

Schedule 2 contains the minor and consequential amendments to other legislation arising from the enactment of the Act. Schedule 3 contains a list of the provisions in other legislation that are to be repealed on the enactment of the Act.

HANSARD REPORTS

13. The following table sets out the dates of the Hansard reports for each stage of the Act's passage through the Northern Ireland assembly.

STAGE	DATE
Introduction of Bill to Environment Committee	31 May 2007
Briefing to Committee on consultation process	7 June 2007
First Stage – Introduction of Bill to the Assembly	11 June 2007
Second Stage debate	26 June 2007
Committee Stage – Departmental briefing on the provisions of the Bill	28 June 2007
Committee Stage – Evidence from taxi industry	13 September 2007
Committee Stage – Evidence from North West Taxis and General Consumer Council for Northern Ireland	20 September 2007
Committee Stage – Evidence from IMTAC, London Taxis International, T&G section of Unite, TGWU, George Best Belfast City Airport	27 September 2007
Committee Stage – Evidence from Accessible Taxis Association NI, International Airport Taxi Company Limited	4 October 2007
Committee Stage – Evidence from Disability Action and the Department	11 October 2007
Committee Stage – Consideration of clauses 1 to 21	18 October 2007
Committee Stage – Consideration of clauses 22 to 58 and Schedules 1 to 3	23 October 2007
Committee Stage – Final scrutiny	8 November 2007
Committee Report on the Bill (NIA 4/07)	29 November 2007
Consideration Stage in the Assembly	26 February 2008
Further Consideration Stage	10 March 2008
Final Stage	8 April 2008
Royal Assent	22 April 2008

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