

Local Government Association:

Draft Amendments to the Local Government (Miscellaneous Provisions) Act 1976

New Clause

Power to stop licensed hackney carriage and licensed private hire vehicles

To move the following Clause:—

“Section 48 A -Power to stop licensed hackney carriage and licensed private hire vehicles

- 1) A licensing authority stopping officer may direct the driver of a vehicle, which appears to the officer to be a licensed hackney carriage or a licensed private hire vehicle, to stop the vehicle.
- 2) The power conferred by subsection (1) may be exercised for the purpose of enabling the licensing authority stopping officer to carry out any of the functions conferred on the officer by sections 47 and 48.
- 3) A person who fails, without reasonable excuse, to comply with a direction of a licensing authority stopping officer under this section is guilty of an offence.
- 4) A person guilty of an offence under subsection (3) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.”

Explanatory Note: This Law Commission proposal will allow local authorities to stop licensed vehicles to check their compliance with licensing conditions and safety standards. It also provides for officers to stop vehicles that they reasonably believe are illegally operating as a licensed hackney carriage or private hire vehicle, including those believed to be picking up passengers while ‘off-duty’ and driven by an unlicensed driver. It will enable clause 12 to have effect without compromising the safety of passengers or other road users when bookings are transferred across licensing authority borders.

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New Clause

New Clause-Regulations: power to stop and detain regulated vehicles being used in contravention of section 46.

To move the following clause:-

“ Section 46A Regulations: power to stop and detain regulated vehicles being used in contravention of section 46.

- 1) Regulations may provide that a constable in uniform, an examiner appointed under section 66A of the Road Traffic Act 1988 or an officer appointed under section 66B of that Act may—
 - (a) direct the driver of a regulated vehicle to stop the vehicle, and
 - (b) detain a regulated vehicle where the constable or officer has reasonable grounds for believing that the vehicle is being, has been or is about to be used as a hire vehicle in contravention of section 4.
- 2) Regulations may make provision as to
 - (a) the removal and retention of vehicles, and the contents of vehicles, detained under this section, and
 - (b) the release or disposal of those vehicles and their contents.
- 3) Regulations under subsection (2) may make provision of a kind required or permitted to be made (in respect of vehicles detained by licensing authority stopping officers under section 48A) by any provision of the Schedule”.

Explanatory Note: This Law Commission proposal will allow local authorities to stop licensed vehicles, or vehicles they reasonably believe to be operating as an unlicensed hackney carriage or private hire vehicle, and direct them to a suitable safe place for inspection. Where vehicles are found to be operating in breach of licence requirements, it makes provision for evidence to be confiscated and the detention of the vehicle, subject to regulations made by the Secretary of State.

The power would only be available to licensing officers that had been appropriately trained and accredited according to such requirements as may be set down by the Secretary of State. It provides a route to take action against unlicensed drivers who are carrying passengers contrary to the conditions in clause 10.

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New Clause

Power to move vehicles on

To move the following clause;-

“Section 46B- Power to move vehicles on

- 1) A licensing authority stopping officer may give a direction to move on where
 - (a) a licensed hackney carriage or a licensed private hire vehicle is waiting (whether on its own or with other licensed hackney carriage or licensed private hire vehicles) in a public place (the relevant place), and
 - (b) at least one of Conditions 1 to 3 is satisfied.

- 2) For the purposes of subsection (1), a direction to move on is a direction to the driver of the licensed hackney carriage or licensed private hire vehicle to move the vehicle from the relevant place immediately.

- 3) Condition 1 is that
 - (a) the licensing authority stopping officer considers that there is a reasonable likelihood that a person may be led to believe, by reason of the private hire vehicle waiting at the relevant place, that the vehicle may be used as a hire vehicle on a journey which begins there and then, and
 - (b) the driver could not agree to use the vehicle in such a way without contravening section 64.

- 4) Condition 2 is that the licensing authority stopping officer considers that the hackney carriage or private hire vehicle is causing an unnecessary obstruction.

- 5) Condition 3 is that
 - (a) the relevant place is in close proximity to a place designated as a hackney carriage stand under section 63, and
 - (b) the licensing authority stopping officer considers that, by waiting at the relevant place, the driver of the hackney carriage or private hire vehicle is attempting to prevent the hire of a vehicle waiting at the hackney carriage stand.

- 6) A person who fails, without reasonable excuse, to comply with a direction of a licensing authority stopping officer under this section is guilty of an offence.

- 7) A person guilty of an offence under subsection (6) is liable on summary conviction to a fine not exceeding level 3 on the standard scale”.

Explanatory Note: This Law Commission proposal makes provision for local authority officers to move on vehicles that they believe are illegally plying for hire, causing an obstruction, or seeking to take business away from licensed hackney carriages using designated taxi ranks. Clause 10 may have the unintended effect of permitting off-duty vehicles to divert custom away from vehicles legitimately plying for hire. This clause provides protection for those legitimate drivers by allowing council officers to move on off-duty vehicles under certain circumstances.

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New Clause

Duty of person accepting a hire-vehicle booking to give information to the hirer

To move the following clause;-

“Section 55C- Duty of person accepting a hire-vehicle booking to give information to the hirer

- 1) This section applies where a person (“A”) accepts a hire-vehicle booking from the hirer or from another person who accepted the booking (and it is immaterial how or by whom the booking is to be fulfilled).
- 2) For this purpose a person accepts a hire-vehicle booking by accepting responsibility for the fulfilment of the booking, otherwise than in the course of being dispatched by another person to fulfil it.
- 3) If the hirer requests A to state either or both of the following—
 - (a) whether another person accepted the booking from A, or
 - (b) whether A dispatched a driver to fulfil the booking,

A must respond to the request by giving the hirer the information required by this section within the period for compliance.

- 4) That duty does not apply to a request made—
 - (a) after the end of the period of 3 months beginning with the day on which the booked journey starts;
 - (b) after the booking is fulfilled, in a case where it is fulfilled by the holder of a taxi driver’s licence using a licensed taxi.
- 5) The period for compliance is the period of 14 days beginning with the day on which the request was made.
- 6) The response to a request to state whether another person accepted the booking must, if the answer is that another person accepted it from A, include-
 - (a) the name of the other person; and
 - (b) if the other person is the holder of a operator’s licence, the licence number and the name of the licensing authority that granted it.
- 7) The response to a request to state whether A dispatched a driver must—

- (a) if A dispatched a driver, include the name of the driver, the type of driver's licence under this Act held by the driver and the name of the licensing authority that issued it; and
 - (b) if another person accepted the booking from A, include the information about the other person mentioned in subsection (6).
- 8) The response must be in writing.
- 9) If A fails to comply with the duty under subsection (3) to respond to a request by giving the hirer the required information within the period for compliance, A is guilty of an offence.
- 10) In proceedings for such an offence, it is a defence for A to show-
 - (a) that it was not practicable to comply with the duty in time but A took all reasonable steps to do so; and
 - (b) that A either gave the hirer the required information as soon as practicable after the end of the period for compliance or took all reasonable steps to do so.
- 11) A person guilty of an offence under subsection (9) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Explanatory Note: This clause places an obligation on licensed operators to inform customers of the details of the new provider if they pass their booking on to another operator, including those outside the borders of the licensing authority. This provides the hirer with the details necessary to seek redress or raise concerns with the appropriate company or licensing authority, if that is required. It addresses a weakness in clause 12 that would allow sub-contracting without a clear route for redress for the passenger.

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New Clause

Suspension of a licence with immediate effect

To move the following clause;-

“Section 62A-Suspension of a licence with immediate effect

- 1) A licensing officer may suspend a licence where-
 - (a) a vehicle is operating within a controlled district, and
 - (b) the licensing officer is of the opinion that the interests of public safety require the licence to be suspended with immediate effect.
- 2) The licensing officer must give notice to the licence holder of the suspension of the licence under this section (an immediate suspension notice).
- 3) The immediate suspension notice must—
 - (a) state that the licensing officer is of the opinion that the interests of public safety require the suspension of the licence to have immediate effect, and
 - (b) specify the reasons for that opinion.
- 4) The suspension of the licence takes effect when the notice is served on the licence holder.
- 5) The licensing officer must give a copy of the notice to the licensing authority that issued the licence.
- 6) The copy must be given before the end of the period of 14 days beginning with the day on which the licensing officer gave the immediate suspension notice.

Explanatory Note: This allows local authority officers to suspend hackney carriage or private hire vehicle licences, irrespective of which authority issued them, where it is in the interests of public safety. Many licensed vehicles operate in areas other than the area that issued the licence, but licensing authority powers of enforcement are currently limited to action only against those who they have directly licensed.

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New Clause

Licence suspension: determination by home licensing authority

“Section 62B-Licence suspension: determination by home licensing authority

- 1) This section applies where a licensing authority receives a copy of an immediate suspension notice under section 62A(5).
- 2) The licensing authority must determine either-
 - (a) that the licence is to remain suspended (until such time as the licensing authority directs that the licence is again in force), or
 - (b) that the suspension is to cease to have effect.
- 3) A licensing authority must give notice of the determination to-
 - (a) the holder of the licence to which the determination relates, and
 - (b) the licensing authority in relation to the licensing officer who suspended the licence under section 62A.
- 4) The notice must specify-
 - (a) the determination made by the licensing authority under this section, and
 - (b) the reasons for that determination.
- 5) The notice must be given before the end of the period of 14 days beginning with the day on which the copy of the immediate suspension notice was given under section 62A(5).

Explanatory Note: This makes provision for a licensing authority to revoke, further suspend, or reinstate a licence that has been temporarily suspended by another licensing authority in the interests of public safety.

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New Clause

Suspension and revocation of licences

To move to;

Repeal section 60 of the Act in its entirety; and

Replace with the following new clause;

“Section 60 A-Suspension and revocation of licences

60 A Power of licensing authority to suspend or revoke licences

- 1) A licensing authority may suspend or revoke a licence it has granted under sections 51, 53, 55 and 59 if—
 - (a) the holder of the licence has failed to comply with any condition to which the licence is subject,
 - (b) the holder of the licence has failed to comply with any provision of this Act, or
 - (c) there is any other reasonable cause to suspend or revoke the licence.
- 2) A licensing authority may also revoke a licence it has granted under sections 51, 53 and 59 at the request of the holder of the licence.
- 3) A licensing authority which decides to suspend or revoke a licence under this section must give to the holder of the licence notice of
 - (a) the decision, and
 - (b) except in the case of a decision to revoke under subsection (2), the reasons for the decision.
- 4) A revocation or suspension under subsection (1) takes effect at the end of the period of 21 days beginning with the day on which the notice under subsection (3) is served on the holder of the licence; but this is subject to sections 52, 61 and 62.
- 5) If a licensing authority is of the opinion that the interests of public safety require a suspension or revocation under subsection (1) to have immediate effect, and the notice under subsection (3) includes a statement of that opinion and the reasons for it, the suspension or revocation takes effect when the notice is served on the holder of the licence.
- 6) A revocation under subsection (2) takes effect when the notice under subsection (3) is served on the holder of the licence.

- 7) A licence suspended under this section remains suspended until such time as the licensing authority which suspended it by notice directs that the licence is again in force.

Explanatory Note: This gives all licensing authorities the power to suspend licence in the interests of public safety.