

EXPLANATORY MEMORANDUM TO
THE PRIVATE HIRE VEHICLES (LONDON) (TRANSITIONAL PROVISIONS)
(AMENDMENT) REGULATIONS 2007

2007 No.3453

1. This explanatory memorandum has been prepared by the Department for Transport and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. **Description**

2.1 This instrument corrects three drafting errors in the Private Hire Vehicles (London) (Transitional Provisions) Regulations 2004 (2004 No 242) – “the Transitional Regulations”.

3. **Matters of special interest to the Joint Committee on Statutory Instruments**

3.1 When the Transitional Regulations were made in 2004, they were reported in the 13th JCSI report of March 2004. The JCSI asked the Department for Transport for a Memorandum on two points which highlighted three errors the Transitional Regulations contained. The Department's response at that time was that, whilst we acknowledged that the Transitional Regulations contained three errors, we did not consider it necessary to issue amending regulations. This was because (i) the errors were unlikely to cause any confusion in practice; and (ii) the regulations were purely transitional.

3.2 In the Department's annual return to the JCSI in April 2007, we stated our intention to revoke the Transitional Regulations by the end of 2007. This return was made with the agreement of Transport for London (TfL) who are responsible for administering the PHV licensing system in London. However, in October 2007, TfL alerted the Department to a problem which meant that they needed the Transitional Regulations to continue in force beyond the end of 2007. (This is discussed further in paragraph 7.) Consequently, the Department has decided to rectify the errors in the Transitional Regulations.

4. **Legislative Background**

4.1 The Private Hire Vehicles (London) Act 1998 (“the 1998 Act”) provides the legislative framework for the licensing of private hire vehicles, drivers and operators in London. The powers to make regulations governing drivers, vehicles and operators passed from the Secretary of State to Transport for London by virtue of section 254 of the Greater London Authority Act 1999. The power to make transitional regulations, under section 37 of the 1998 Act, remained with the Secretary of State. The Transitional Regulations were made under section 37 and this instrument is also made under section 37.

5. Territorial Extent and Application

5.1 Section 37 of the 1998 Act extends to England and Wales, and accordingly so too does this instrument.

5.2 However this instrument affects only the private hire vehicle licensing regime in London.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 The Transitional Regulations were made by the Secretary of State in order to effect a smooth transition from an unlicensed minicab trade in London to a licensed private hire vehicle (PHV) trade. It was considered important that any vehicles which were providing a minicab service before the relevant provisions of the 1998 Act came into force should be allowed to continue to provide that service whilst TfL dealt with the large number of licence applications which would result from such a substantial change. The absence of any such arrangements would have resulted in an unacceptable disruption both to passengers in terms of having an adequate service and to the trade in terms of enabling them to continue with their livelihoods. The Transitional Regulations allowed for temporary permits to be issued to vehicle owners who had registered with TfL.

7.2 The JCSI took an interest in the Transitional Regulations shortly after they were made on account of three specific errors in them. At the time of making the Transitional Regulations, we envisaged a complete transition within two years. In the light of this, our initial response to the JCSI was that we saw no need to amend the Transitional Regulations. However, that has not proved to be the case; they are, in fact, still being relied upon by TfL to deal with a small number of transitional cases relating to the licensing of motorcycles.

7.3 TfL believed that they would complete the processing of the motorcycle applications by the end of 2007. It was on this basis - and with their agreement - that the Department reported to the JCSI in April 2007 that the Transitional Regulations would be revoked by the end of 2007.

7.4 In October 2007, TfL alerted us to the fact that they did not consider that their regulations made under the 1998 Act [ie: the Private Hire Vehicles (London PHV Licences) Regulations 2004] provided them with the power to license two-wheeled vehicles as PHVs. Consequently, they approached the Department and asked for a "stay of execution" such that the motorcycles could continue to operate on temporary permits until TfL had had an opportunity to consult on, and amend, regulations providing for the licensing of motorcycles.

7.5 The Department agreed to TfL's request, but, given the time-lapse since the Transitional Regulations were made, considered it important to rectify the errors, even though the Transitional Regulations are required for only a further limited period and purpose.

8. Impact

8.1 An Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

9. Contact

9.1 Pippa Brown at the Department for Transport Tel: 020 7944 2278 or e-mail: pippaA.brown@dft.gsi.gov.uk can answer any queries regarding the instrument.