

SUBJECT: IMPLEMENTATION OF TAXI AND PHV AGE BASED LIMITS AND EXEMPTIONS

DATE: 21 OCTOBER 2011

1 PURPOSE AND DECISION REQUIRED

1.1 The purpose of this paper is to:

- (a) Note that the Commissioner has approved the implementation by TfL from 1 January 2012 of the age limits and related emissions standards set out in Policy 4 of the Mayor's Air Quality Strategy ("MAQS");
- (b) Note that the Commissioner has implemented the changes in respect of PHVs by making them prescribed requirements through the approval of new PHV regulations;
- (c) Approve amended Taxi Conditions of Fitness to implement the measures as regards taxis; and
- (d) Approve a range of exemptions for PHV and taxis from the age limits and emissions standards after having considered representations from the trade and other relevant matters.

2 INTRODUCTION AND BACKGROUND

- 2.1 Policy 4 of the Mayor's Air Quality Strategy ("MAQS") contains a proposal that TfL, through its licensing function, imposes age limits and related emissions standards from 2012 on PHVs and taxis in order to reduce the level of harmful emissions from such vehicles and to require the introduction of more modern, less polluting models. Two of the pollutants that cause most concern within London are particulate matter (PM10) and oxides of nitrogen (NOx). Modelling has shown that in Central London in 2008 taxis were responsible for around 30 per cent of PM10 exhaust emissions and 10 per cent of NOx emissions.
- 2.2 The MAQS proposes that from 1 January 2012 PHVs and taxis will not be licensed if older than 10 years and 15 years respectively; new or newly licensed PHVs will not be licensed if older than five years from 1 April 2012.
- 2.3 From 1 April 2012 the MAQS also proposes all PHVs and taxis, new or new to licensing, must meet the respective Euro 4 and Euro V emissions standards as a minimum. The MAQS recognised that certain vehicles should be exempted from these measures and stated that a consultation would subsequently take place about what these should be.
- 2.4 The age limits and related emissions standards for PHVs and taxis set out in the MAQS are simply policies in that strategy. TfL is under a statutory duty to have regard to Policy 4 when exercising its PHV and taxi licensing functions.

- 2.5 The Taxi and Private Hire (TPH) Team has recently concluded a consultation with the taxi and PHV trades in relation to proposals to implement, with exemptions, the age limits and related emissions standards for PHVs and taxis as proposed in the MAQS. Attached at **Appendix A** is a report (“the Consultation Report”) prepared by TfL officers that summarises the reasons for the introduction of the proposed air quality measures, the consultation process, responses received and makes recommendations as to the final form the exemptions should take (see section 5 below), and related matters.

3 THE PUBLIC SECTOR EQUALITY DUTY

- 3.1 In considering the proposals, it is necessary to comply with TfL’s public sector equality duties (“the PSED”) under section 149 of the Equality Act 2010. Under the PSED TfL must, in the exercise of its functions, have due regard to a number of matters the most relevant of which here is to have due regard to the need to advance equality of opportunity between people who share a protected characteristic and those who do not¹. Having “due regard to advancing equality” involves removing or minimising disadvantages suffered by people due to their protected characteristics and taking steps to meet the needs of people from protected groups where these are different from the needs of other people. The “protected groups and characteristics” are: age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex and sexual orientation.
- 3.2 The differing ethnic make-up of the PHV and taxi trades and the impacts of the measures on older and disabled drivers/owners is of particular relevance.
- 3.3 In relation to the differing ethnic make-up of the two sides of the trade, taxis have a large proportion of white British operators/ drivers while PHVs have a large proportion of operators/ drivers from BAME backgrounds, and the PHV trade is a traditional “entry-level” occupation for many migrants. A representation has been received from the Association of Somali Licensed Minicab Drivers stating that the introduction of the measures would detrimentally impact on their community.
- 3.4 An Equalities Impacts Review is set out in **Appendix F** of the Consultation Report and considers the likely equalities impacts of the proposed age limit and emissions standards themselves, and the proposed exemptions. A summary of its findings is at paragraph 6.4 (page 26 of the attached Consultation Report). Where the measures or proposed exemptions raise the likelihood of adverse impacts on protected groups, potential mitigations are identified.
- 3.5 TfL officers have assessed whether any such mitigating action is recommended as practical or appropriate and consider that no changes are required in relation to the current proposals.

¹ Additionally, TfL must, in the exercise of its functions, have due regard to the need to eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Equality Act 2010 and have due regard to fostering good relations between people who share a protected characteristic and those who do not (section 149, Equality Act 2010).

4 IMPLEMENTATION OF AGE LIMITS AND EMISSION STANDARDS BY TFL

- 4.1 The Commissioner has approved the implementation of age limits and related emissions standards by TfL from 1 January 2012 as set out in Policy 4 of the MAQS.

Private Hire Vehicles

- 4.2 For PHVs, the relevant measures have been implemented by incorporating the 10 and five year age limits, and the Euro 4 emission standard, into the current "prescribed requirements" for the licensing of vehicles which are set out in Schedule 1 to the PHV (London PHV Licences) Regulations 2004. The Commissioner approved the Private Hire Vehicles (London PHV Licences)(Amendment) Regulations 2011 to make the necessary changes. These regulations will come into force on 24 October 2011 and the new prescribed requirements will have effect from 1 January 2012.

Taxis

- 4.3 The corresponding changes for taxis involve the making of changes to the current taxi Conditions of Fitness to include the 15 years age limit and the Euro V emissions standard. TfL can refuse to license a taxi that fails to meet the Conditions of Fitness.
- 4.4 The Director of TPH is asked to approve the amended Conditions of Fitness at **Appendix B**, which include the 15 years age limit (new paragraph 5A) and the Euro V emissions standard (paragraph 13).

5 IMPLEMENTATION OF PROPOSED EXEMPTIONS

- 5.1 PHV and taxi legislation gives TfL a general discretion to exempt PHV and taxi vehicles from their respective licensing requirements. It is proposed that the exemptions set out below apply. These would take the form of an additional five years (maximum) on top of the age limit that would otherwise apply in the following cases and subject to compliance with applicable conditions:
- (a) Taxi and PHV: alternatively-fuelled vehicles (with the change that certain conversions made after 1 January 2012 will also be eligible for an exemption);
 - (b) PHV only: wheelchair-accessible vehicles (WAVs);
 - (c) PHV only: specialist needs transport (SNT); and
 - (d) PHV only: vehicles covered by the requirements of the London Low Emission Zone (LEZ).
- 5.2 Historic or niche PHVs may be granted up to an indefinite exemption from the age limits on a case by case basis; the only indefinite exemption that will be granted to taxis is confined to the two Asquith taxis currently licensed, provided they remain licensed before 1 January 2012.

- 5.3 An exemption for vehicles (taxi and PHV) where an approved substantial adaptation has been made to the vehicle to meet the needs of a disabled driver is recommended. This was not proposed in the original consultation and arises from a particular consultation response, which TfL officers support. This category will also be considered by TPH on a case by case basis.
- 5.4 The base point for calculating the age of a vehicle will be the date of registration with the DVLA. A break of a maximum of two years between licensing renewals will be permitted where it arose from circumstances outside the applicant's control and is otherwise reasonable; breaks in excess of two years will be normally regarded as a new license application. This is particularly relevant in the context of the five year age limit for PHVs that are new or new to licensing.
- 5.5 The proposed exemptions, and related matters described above, will be implemented using TfL's general licensing discretion. The Director of TPH is asked to exercise his delegated authority to approve the proposed exemptions and they will be publicised by means of a TPH Notice, which will provide information about the exemptions, the conditions that will apply, and state how applicants can apply for their vehicle to be exempted.

6 RECOMMENDATIONS

- 6.1 After considering the issues set out above, the contents of the Consultation Report and the Equalities Impact Review, it is recommended that the Director of Taxi and Private Hire:
- (a) Notes that the Commissioner has approved the implementation of age limits and related emissions standards by TfL from 1 January 2012 as set out in Policy 4 of the MAQS;
 - (b) Notes that the Commissioner has approved implementing the changes in respect of PHVs by the making of new PHV regulations;
 - (c) Approves the amended Taxi Conditions of Fitness in the form at **Appendix B** (and to sign them as approved); and
 - (d) Approves the exemptions for PHV and taxis from the age limits and emissions standards otherwise applying in the form, and subject to the conditions, set out in the TPH Notice attached at **Appendix C**.

Authorised by:

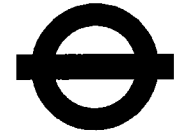
Director of Transport and Private Hire:



Date:

21. 10. 11

Transport for London



SUBJECT: IMPLEMENTATION OF TAXI AND PHV AGE BASED LIMITS AND EXEMPTIONS

DATE: 18 OCTOBER 2011

1 PURPOSE AND DECISION REQUIRED

1.1 The purpose of this paper is to:

- (a) update the Commissioner on the recent consultation with the taxi and PHV trade in relation to a proposal to implement, with exemptions, age limits and related emissions standards for PHVs and taxis as proposed in the Mayor's Air Quality Strategy;
- (b) recommend that the Commissioner approves the implementation of age limits and related emissions standards by TfL with effect from 1 January 2012;
- (c) recommend that the Commissioner approves the changes in respect of PHVs through the making of new PHV regulations; and
- (d) note that the Director of Taxi and Private Hire will implement the proposals in respect of taxis through changes to the Conditions of Fitness and will also approve a range of exemptions for PHV and taxis having consulted with the trade.

2 INTRODUCTION AND BACKGROUND

- 2.1 Policy 4 of the Mayor's Air Quality Strategy ("MAQS") contains a proposal that TfL, through its licensing function, imposes age limits and related emissions standards from 2012 on PHVs and taxis in order to reduce the level of harmful emissions from such vehicles and to require the introduction of more modern, less polluting models. Two of the pollutants that cause most concern within London are particulate matter (PM10) and oxides of nitrogen (NOx). Modelling has shown that in Central London in 2008 taxis were responsible for around 30 per cent of PM10 exhaust emissions and 10 per cent of NOx emissions.
- 2.2 The MAQS proposes that from 1 January 2012 PHVs and taxis will not be licensed if older than 10 years and 15 years respectively; new or newly licensed PHVs will not be licensed if older than five years from 1 April 2012.
- 2.3 From 1 April 2012 the MAQS also proposes all PHVs and taxis, new or new to licensing, must meet the respective Euro 4 and Euro V emissions standards as a minimum. The MAQS recognised that certain vehicles should be exempted from these measures and stated that a consultation would subsequently take place about what these should be.

- 2.4 The age limits and related emissions standards for PHVs and taxis set out in the MAQS are simply policies in that strategy. TfL is under a statutory duty to have regard to Policy 4 when exercising its PHV and taxi licensing functions.
- 2.5 The Taxi and Private Hire (TPH) Team has recently conducted a consultation with the taxi and PHV trades in relation to proposals to implement, with exemptions, the age limits and related emissions standards for PHVs and taxis as proposed in the MAQS. Attached at **Appendix A** is a report (“the Consultation Report”) prepared by TfL officers that summarises the reasons for the introduction of the proposed air quality measures, the consultation process, responses received and makes recommendations as to the final form the exemptions should take (see section 5 below), and related matters.
- 2.6 Although the recent consultation was specifically about what exemptions should apply, respondents from both sides of the trade nonetheless responded to say that they opposed the introductions of the age limits and standards altogether (these responses are set out at Chapter 5, page 17 of **Appendix A**). As such, it is necessary for TfL to decide whether to proceed with the introduction of the measures in 2012 as planned and recommended by the MAQS, taking such representations and other relevant matters into account.

3 THE PUBLIC SECTOR EQUALITY DUTY

- 3.1 In considering the proposals, it is necessary to comply with TfL’s public sector equality duties (“the PSED”) under section 149 of the Equality Act 2010. Under the PSED TfL must, in the exercise of its functions, have due regard to a number of matters the most relevant of which here is to have due regard to the need to advance equality of opportunity between people who share a protected characteristic and those who do not¹. Having “due regard to advancing equality” involves removing or minimising disadvantages suffered by people due to their protected characteristics, taking steps to meet the needs of people from protected groups where these are different from the needs of other people. The “protected groups and characteristics” are: age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex and sexual orientation.
- 3.2 The differing ethnic make-up of the PHV and taxi trades and the impacts of the measures on older and disabled drivers/owners is of particular relevance.

¹ Additionally, TfL must, in the exercise of its functions, have due regard to the need to eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Equality Act 2010 and have due regard to fostering good relations between people who share a protected characteristic and those who do not (section 149, Equality Act 2010).

- 3.3 In relation to the differing ethnic make-up of the two sides of the trade; taxis have a large proportion of white British operators/ drivers while PHVs have a large proportion of operators/ drivers from BAME backgrounds, and the PHV trade is a traditional “entry-level” occupation for many migrants. A representation has been received from the Association of Somali Licensed Minicab Drivers stating that the introduction of the measures would detrimentally impact on their community.
- 3.4 An Equalities Impacts Review is set out in **Appendix F** of the Consultation Report and considers the likely equalities impacts of the proposed age limit and emissions standards themselves, and the proposed exemptions. A summary of its findings is at paragraph 6.4 (page 26 of the attached Consultation Report). Where the measures or proposed exemptions raise the likelihood of adverse impacts on protected groups, potential mitigations are identified.
- 3.5 TfL officers have assessed whether any such mitigating action is recommended as practical or appropriate and consider that no changes are required in relation to the current proposals.

4 IMPLEMENTATION OF AGE LIMITS AND EMISSION STANDARDS BY TFL

- 4.1 For the reasons given in the Consultation Report (at paragraphs 5.2 to 5.25, pages 18-22) TfL officers recommend that, after taking into account all relevant considerations, the measures set out in Policy 4 of the MAQS described above should be introduced from 1 January 2012 by TfL.

Private Hire Vehicles

- 4.2 For PHVs, the relevant measures would be implemented by incorporating the 10 and five year age limits, and the Euro 4 emission standard, into the current “prescribed requirements” for the licensing of vehicles which are set out in Schedule 1 to the PHV (London PHV Licences) Regulations 2004. TfL can refuse to license a vehicle that fails to meet the prescribed requirements. The proposed “PHV Amendment Regulations” contained at **Appendix B** insert new paragraphs 1A to 1D² covering the age limits and Euro 4 standards into that Schedule.
- 4.3 The Commissioner has delegated authority to approve the making of PHV Amendment Regulations.

² The new paragraph 1D makes the reference to the Euro 4 emissions standard and the directive under which it is made (EC Directive 70/ 220/ EEC) “ambulatory” so that they are to be construed as amended from time to time. This is permitted under the European Communities Act 1972 and has the advantage that the 2004 Regulations do not have to be amended every time that standard or relevant directive is changed in the future.

Taxis

- 4.4 For taxis, the relevant measures would be implemented through making changes to the current Taxi Conditions of Fitness to include the 15 years age limit and the Euro V emissions standard. TfL can refuse to license a taxi that fails to meet the Conditions of Fitness.
- 4.5 The Director of TPH has delegated authority to approve changes to the Conditions of Fitness.

5 IMPLEMENTATION OF PROPOSED EXEMPTIONS

- 5.1 PHV and taxi legislation gives TfL a general discretion to exempt PHV and taxi vehicles from their respective licensing requirements. It is proposed that the exemptions set out below apply. These would take the form of an additional five years (maximum) on top of the age limit that would otherwise apply in the following cases and subject to compliance with applicable conditions:
- (a) Taxi and PHV: alternatively-fuelled vehicles (with the change that certain conversions made after 1 January 2012 will also be eligible for an exemption);
 - (b) PHV only: wheelchair-accessible vehicles (WAVs);
 - (c) PHV only: specialist needs transport (SNT); and
 - (d) PHV only: vehicles covered by the requirements of the London Low Emission Zone (LEZ).
- 5.2 Historic or niche PHVs may be granted up to an indefinite exemption from the age limits on a case by case basis; the only indefinite exemption that will be granted to taxis is confined to the two Asquith taxis currently licensed, provided they remain licensed before 1 January 2012.
- 5.3 An exemption for vehicles (taxi and PHV) where an approved substantial adaptation has been made to the vehicle to meet the needs of a disabled driver is recommended. This was not proposed in the original consultation and arises from a particular consultation response, which TfL officers support. This category will also be considered by TPH on a case by case basis.
- 5.4 The base point for calculating the age of a vehicle will be the date of registration with the DVLA. A break of a maximum of two years between licensing renewals will be permitted where it arose from circumstances outside the applicant's control and is otherwise reasonable; breaks in excess of two years will be normally regarded as a new license application. This is particularly relevant in the context of the five year age limit for PHVs that are new or new to licensing.

5.5 The proposed exemptions, and related matters described above, will be implemented using TfL's general licensing discretion. The Director of TPH has delegated authority to approve the proposed exemptions and they will be publicised by means of a TPH Notice, which will provide information about the exemptions, the conditions that will apply, and state how applicants can apply for their vehicle to be exempted.

6 RECOMMENDATIONS

6.1 After considering the issues set out above, the contents of the Consultation Report and the Equalities Impact Review, it is recommended that the Commissioner:

- (a) notes the recent consultation with the taxi and PHV trade in relation to the implementation, with exemptions, of age limits and related emissions standards for PHVs and taxis, as proposed in the Mayor's Air Quality Strategy;
- (b) approves that TfL should implement the age limits for taxis and PHVs, and related emissions standards, set out in Policy 4 of the MAQS with effect from 1 January 2012;
- (c) approves the changes in respect of PHVs through the making of PHV Amendment Regulations incorporating the changes as statutory "prescribed requirements" in the form at **Appendix B**, and to sign the regulations where flagged; and
- (d) notes that the Director of Taxi and Private Hire will implement the proposals in respect of taxis through changes to the Conditions of Fitness and will also approve a range of exemptions for PHV and taxis as described above, having consulted with the trade.

Authorised by:

Commissioner: 

Date: 21 October 2010

Transport for London

GREATER LONDON AUTHORITY ACT 1999
PRIVATE HIRE VEHICLES (LONDON) ACT 1998

Private Hire Vehicles (London PHV Licences) (Amendment) Regulations 2011

Made

21 October 2011

Coming into force

24 October 2011

Whereas for the purposes of paragraph 1A of Schedule 2 to the European Communities Act 1972 (“the 1972 Act”) **(a)** these Regulations make provision for a purpose mentioned in section 2(2) of the 1972 Act and contain reference to EC Directive 70/220/EEC, being a Community instrument within the meaning of that Act, and it appears to Transport for London that it is necessary or expedient for the reference in these Regulations to that Directive to be construed as a reference to that instrument or that provision as amended from time to time.

Now Transport for London, in exercise of the powers conferred on it by sections 7(2)(c) and 32 of the Private Hire Vehicles (London) Act 1998 **(b)** and paragraph 1A of Schedule 2 to the European Communities Act 1972 and all other powers enabling it in that behalf, hereby makes the following Regulations :—

1. Citation and commencement

These Regulations may be cited as the Private Hire Vehicles (London PHV Licences) (Amendment) Regulations 2011 and shall come into force on 24 October 2011.

2. Preliminary

The Private Hire Vehicles (London PHV Licences) Regulations 2004 (“the 2004 Regulations”) shall be amended in accordance with the following provisions of these Regulations.

3. Amendment of Schedule 1 to the 2004 Regulations

The following shall be inserted after the end of paragraph 1 of Schedule 1 to the 2004 Regulations —

“Vehicle age limits

1.A Where a London PHV licence is granted between 1 January and 31 March 2012 (including on renewal) the vehicle shall not be over 10 years of age as calculated from the date on which the vehicle was first registered under the Vehicle and Excise Registration Act 1994.

1.B Where after 31 March 2012 a London PHV licence is granted:

- (1) on renewal the vehicle shall not be over 10 years of age as calculated from the date on which the vehicle was first registered under the Vehicle and Excise Registration Act 1994; and
- (2) otherwise than on renewal, then the vehicle shall not be over 5 years of age as so calculated.

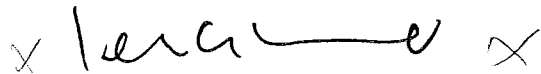
“Vehicle emissions standards

1.C. Where after 31 March 2012 a London PHV licence is granted otherwise than on renewal the vehicle shall comply with the Euro 4 standard as set out in EC Directive 70/ 220 EEC.

1.D. For the purposes of regulation 1.C above the reference to EC Directive 70/220/EEC is to be construed as a reference to that instrument as amended from time to time in accordance with paragraph 1A of Schedule 2 to the European Communities Act 1972.

Signed by authority of Transport for London

21 October 2011



Peter Hendy, Commissioner

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- (a) 1972 c 68: the European Communities Act 1972 has been amended extensively.
- (b) 1998 c. 34; the Private Hire Vehicles (London) Act 1998 was extensively amended by Schedule 21 to the Greater London Authority Act 1999 (c. 29)
- (c) European Community Directive 70/220/ EEC was amended by Directive 1998/69/EC and further amended by Directive 2002/80/EC

EXPLANATORY MEMORANDUM

These regulations amend the Private Hire Vehicles (London PHV Licences) Regulations 2004 (“the 2004 Regulations”) to introduce new prescribed requirements for the purposes of Section 7(2)(c) of the Private Hire Vehicles (London) Act 1998 (“the 1998 Act”) from 1 January 2012. Section 7(2)(c) of the 1998 Act permits Transport for London (“TfL”), as the licensing authority, to prescribe requirements which it must be satisfied a vehicle meets before it will grant the vehicle a London PHV licence. Regulation 3 of the 2004 Regulations formally prescribes such requirements, which are contained in Schedule 1 to those regulations.

The new prescribed requirements cover vehicle age limits (10 years maximum from 1 January 2012, including on renewal, and from 1 April 2012, 5 years maximum for newly licensed vehicles) and the Euro 4 emissions standard for newly licensed vehicles. Schedule 1 of the 2004 Regulations is amended by inserting the following new provisions: new paragraphs 1A and 1B concern vehicle age limits and a new paragraph 1C concerns the Euro 4 vehicle emissions standard. As the Euro 4 emissions standard is set out in EC Directive 70/ 220 EEC, the reference to that directive in the 2004 Regulations is made “ambulatory” so that it is to be construed as a reference to that instrument as amended from time to time in accordance with paragraph 1A of Schedule 2 to the European Communities Act 1972. This is effected by means of the inclusion of new paragraph 1D into Schedule 1 of the 2004 Regulations.