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for Transport

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My Lords,

Pedicabs (London) Bill

Following Second Reading held on Wednesday 22 November on the Pedicabs (London) Bill, I am writing to provide further clarity and detail on the points raised by Noble Lords during the debate.

Purpose of Bill

Lord Berkeley and Lord Borwick raised the issue of the Bill's objective and purpose. The Bill closes the legal anomaly that has meant pedicabs have been operating on London's streets unregulated and gives Transport for London (TfL) powers to tackle the anti-social, unsafe and nuisance behaviours of certain pedicab drivers and operators.

This will create an opportunity for a sustainable pedicab industry to emerge in London, where passengers can be assured that pedicabs, their drivers and operators are licensed and accountable, with appropriate safety standards and fare controls in place. This will put an end to unscrupulous drivers and operators ripping passengers off.

Case for Legislating

Baroness Randerson commented on the priority being given to this Bill. The Government has consistently supported efforts to tackle the legal anomaly that means pedicabs are operating unregulated on London's streets. This has included supporting the Private Members' Bill brought forward by Nickie Aiken MP. These efforts have not proven successful and that is why the Government is now taking action to bring forward this Bill. This reflects the Government listening to concerns consistently raised about the behaviour and conduct of certain pedicab operators and drivers.

Baroness Randerson asked whether the regulation of pedicabs in London could be achieved through a more modest amendment to existing legislation rather than bringing forward this new Bill before Parliament. Pedicabs are currently classed as 'stage carriages' under the Metropolitan Public Carriage Act 1869. The legislation that would allow the regulation of 'stage carriages' is no longer extant. Given the work that had already been done on providing TfL with powers under a new Bill, this approach was considered more appropriate than starting from scratch to look at the ways to amend the existing legislation in such a way that would achieve the same effect.

Incidents Caused by Pedicabs

Lord Hogan-Howe requested information about incidents caused by pedicab drivers and operators, and evidence that existing regulations have been broken. The lack of existing regulation coupled with the limited powers of enforcement has meant there is not a detailed evidence base to assess the true impact of pedicabs. Concerns have consistently been raised to Government about the disproportionate safety and traffic-related issues caused by some pedicabs.

Information provided by TfL shows there were 24 driver incident reports between 2018 and August 2023 involving pedicabs, and six sexual offences on women between 2019 and August 2023. Pedicab drivers are currently able to carry passengers without a licence, unlike taxi and private hire vehicle drivers, this Bill will close this legal anomaly.

Current enforcement activity, taken forward by Westminster City Council and the Metropolitan Police, focuses on noise nuisance legislation and whether pedicabs comply with electrically assisted pedal cycle regulations. Through this action, Westminster City Council working with the Metropolitan Police have worked to take enforcement action, with around £30,000 in fines issued between November 2021 and August 2023.

Lord Hogan-Howe also asked about the pedicab industry outside London, and potential lessons that could be drawn upon. Pedicabs can be regulated as taxis outside of London. However, whether there is sufficient demand to make the provision of pedicab services a viable business remains to be seen. For now, this appears to be an industry concentrated in London.

Pedicabs Definition

Viscount Goschen raised the issue of the Bill's definition of 'power-assisted pedicabs', and whether this captures 'electrically assisted pedicabs'. This definition has been used because it is considered broader than solely referring to 'electrically assisted'. The definition has been reviewed in bringing this Bill before Parliament and the Government is content that 'power-assisted' sufficiently captures electrically powered pedicabs.

Baroness Anelay identified a potential issue with the definition of pedicab at Clause 1(2) of the Bill, in particular the meaning of 'trailer'. A cargo box with seating located at the front of the pedal cycle/power-assisted pedal cycle would form part of the pedicab. However, the Government has tabled minor amendments at Committee Stage to prevent pedicab drivers and operators circumventing the policy intention by carrying passengers in vehicles attached to the pedicab (i.e., trailers).

Definition of Reward

Baroness Anelay commented on the drafting of Clause 1(2) of the Bill and asked for the definition of 'reward' to be expanded upon. The issues raised by Baroness Anelay have been considered, in consultation with the Office for Parliamentary Counsel. As previously indicated, the Bill is using the plain meaning of the word. The scenario outlined by Baroness Anelay during the Second Reading debate, where an individual receives a gift as a thank you, is unlikely to be captured under this Bill's provisions. In contrast, it is considered that the reference to a 'pedal cycle or power-assisted being made available with a driver for hire or reward' is focused on cases where the reward is agreed in advance.

In an instance where a formal arrangement is in place for an individual to transport other people's children on a daily or regular basis in return for a pre-agreed payment, this might be caught by the Bill's provisions. In such a case, this individual would be providing a service, but it is not clear this is sufficiently different to the types of pedicabs this Bill intends to regulate to warrant excluding this type of situation in the Bill.

Ultimately, however, it will be for TfL to take a view on such matters in designing the regulations. TfL could choose to exercise their regulatory powers in a manner that takes certain types of pedicab usage outside the scope of the regulations.

Immigration Status

Baroness Randerson queried the inclusion of Clause 2(2) in the Bill, relating to immigration status. The majority of drivers of taxis and private hire vehicles are self-employed. This means they are not subject to existing right to work checks undertaken by employers under the Immigration, Asylum and Nationality Act 2006. This leaves scope for the sector to be exploited by those who intend to work illegally.

The Immigration Act 2016 made immigration checks mandatory and embedded immigration safeguards into existing licensing regimes across the UK. Clause 2(2) of this Bill is intended to ensure equivalent provision to enable TfL to carry out right to work checks on pedicab drivers.

TfL Policy Intention

A policy note has been attached to this letter. This sets out TfL's policy intention for a range of matters covered in the Bill.

Noise

The Government is aware of and shares the concerns raised by Noble Lords on the noise nuisance caused by certain pedicab drivers. The Government will carefully consider amendments tabled by Noble Lords relating to noise.

However, the Government understands TfL is committed to acting in this area and has indicated pedicab regulations would cover the conduct of drivers, including playing loud music and causing disturbances. Clause 2(6) of the Bill confers broad enough powers on TfL to enable it to address nuisance issues within regulations they bring forward. This Bill confers discretion onto TfL to determine what is most appropriate, following consultation.

Pedicab Ranks

Baroness Randerson raised the matter of pedicab ranks, and how TfL will seek to apply the provisions in the Bill. It will be for TfL to determine where and when pedicabs are able to operate. Government expects TfL will engage closely with London boroughs, who hold responsibility for most London's roads. TfL has indicated it will need to give proper consideration to this matter, taking into account the needs of pedicab drivers and passengers, and balancing this with the need for all road users.

Pedicab Operations

Viscount Goschen asked about the degree to which the pedicab operator is responsible for those operating under its banner, even if these pedicab drivers are independent contractors. This will be a matter for TfL to determine in designing a regulatory regime. Clause 2(9) of the Bill gives TfL a power to impose requirements on drivers or operators of pedicabs.

Lord Hogan-Howe raised the issue of pedicab drivers undertaking a form of knowledge, consistent with London's Black Cab industry. This is a matter that would be determined by TfL in setting requirements for drivers operating in the pedicab industry.

Furthermore, Lord Hogan-Howe raised points on lost property and how pedicabs might be ordered, whether this be on the street or through an app. These are matters for TfL to determine, and the Bill provides scope for TfL to design regulations that address these practical issues.

Enforcement

Noble Lords raised the matter of enforcement, and whether TfL and the Metropolitan Police possess adequate resources to conduct effective enforcement. The Bill confers powers onto TfL to authorise others to carry out functions on its behalf and specifically allows TfL, through regulations, to confer enforcement functions on constables.

The Bill contains a suite of enforcement tools which are intended to provide flexibility over the design and implementation of a regulatory regime that tackles anti-social, nuisance and unsafe behaviour. This includes powers to suspend or revoke licences, create offences, issue fixed penalty notices, impose civil penalties, and immobilise, seize, retain, and dispose of pedicabs.

Further, Clause 3(2)(b) provides that fines issued under regulations may not exceed Level 4 on the standard scale. Lord Hogan-Howe commented on this level of fine, which has a maximum limit of £2,500, and asked whether it would serve as an effective deterrent for pedicab drivers and operators who break pedicab regulations. As mentioned above, the Government considers this to form part of a range of powers that provide TfL with scope to design an effective enforcement regime.

The policy note provided by TfL contains further detail on enforcement, including TfL's view that the type of offences that would be applicable to pedicabs would be similar to those applying to taxis and private hire vehicles.

Implementation

Baroness Stowell asked about the expected timeline for TfL being able to introduce pedicab regulation. The Bill will come into force two months after it is passed. The Government expects a regulatory regime to be forthcoming following this period, however the precise timeline will be a matter for TfL.

The Bill requires TfL to conduct a consultation prior to bringing forward regulations and makes these regulations subject to the negative resolution procedure.

Lord Moylan raised the issue of whether Government will be satisfied by the introduction of regulations, covering matter such as insurance, or whether the Government would go further and commit to reviewing the effectiveness of legislation in due course. The Government will, working closely with TfL, undertake a voluntary review of the policy five years post implementation. This will assess the impact of regulation on London's pedicab industry.

Parliamentary Procedure

Lord Moylan and Baroness Randerson raised the issue of Government's role in pedicab regulations made by TfL.

This Bill will be the first legislation introduced specifically for the pedicab industry. While the Bill provides scope for TfL to design regulations at their discretion, it is right that Parliamentary scrutiny is attached to this Bill. The negative resolution procedure is considered to strike an appropriate balance between giving TfL adequate scope to determine regulations and giving Parliament a role in their approval.

The Government has tabled amendments at Committee Stage to provide clarity on the procedure for secondary legislation. These will ensure that TfL must obtain the Secretary of State's consent to regulations and confirm that these regulations must be laid in Parliament by the Secretary of State. This will address the point raised by Lord Liddle over what happens in a scenario where Government and TfL disagree on regulations, as it ensures there will need to be a consensus.

Furthermore, Noble Lords raised the issue of TfL seeking to ban pedicabs outright. The role outlined above for the Secretary of State will ensure that there will need to be agreement between the Department and TfL on the right way to regulate this industry.

Micromobility

A number of Noble Lords raised the issue of legislation to address concerns over illegal and/or irresponsible use of micromobility vehicles.

Private e-scooters remain illegal to use on public roads and rental e-scooters can only be hired in e-scooter trial areas. A range of motoring offences and penalties already apply to using an e-scooter illegally and/or irresponsibly. Users can face criminal prosecution, a fixed penalty notice, points on their driving licence, and the e-scooter can be impounded. Those caught riding an e-scooter, or cycling, on the pavement can face a fine of up to £500. Enforcement is a matter for the police.

Departmental guidance on how the Government's e-scooter trials should run clarifies the need for sufficient parking provision and that local authorities should ensure e-scooters do not become obstructive to other road users. In the case of cyclists, Rule 70 of the Highway Code advises, but does not require, people to park their cycle where it will not cause an obstruction or hazard to other road users.

Pressures on the legislative timetable mean that the Government will not introduce micromobility legislation in this parliamentary session. To ensure future micromobility legislation is fit both for vehicle types that already exist, such as e-scooters, and vehicle types not yet invented, the Government will continue to gather evidence to support policy development. Trials of rental e-scooters will also be extended for a further two years, to 31 May 2026, to

continue testing these vehicles in a real-life environment. Extending the e-scooter trials will enable us to build on current learning across areas including usage, safety, and environmental impacts, and to explore changing travel patterns since the coronavirus pandemic and as e-scooters become more embedded in public life.

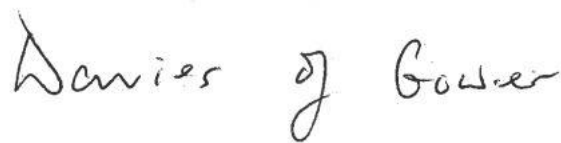
The Government will also consult on proposals for e-scooter regulations in due course and is progressing research on the remaining evidence gaps.

Battery safety

Lord Berkeley reflected concerns about the safety of batteries used to power e-cycles and e-scooters. It is the case that all such vehicles, as well as batteries and charges, need to comply with several product safety regulations. This includes the Supply of Machinery (Safety) Regulations 2008, which set out essential safety requirements, including that machinery must be designed and constructed in such a way as to avoid any risk of fire. The Home Office recently published updated guidance on fire safety for e-cycles and e-scooters, which can be found here: <https://fireengland.uk/news/how-keep-your-home-safe-when-charging-your-e-bike-or-e-scooter>

Going forward, the Office for Product Safety and Standard is undertaking research into the safety of the lithium-ion batteries used in e-cycles and e-scooters and this should conclude in 2024. Alongside this, the Department for Transport is developing additional guidance on safe use of batteries in e-cycles and e-scooters and will publish this soon.

I thank Noble Lords for their interest in these issues and for their participation in the debate. I am copying this letter to everyone who spoke in the debate and will place a copy in the Library of the House.

A handwritten signature in dark ink, reading "Davies of Gower". The script is cursive and fluid, with the first name "Davies" and the surname "Gower" clearly legible, separated by a small "of".

LORD DAVIES OF GOWER