



Department
for Transport

Taxi & PHV Licensing Policy Update

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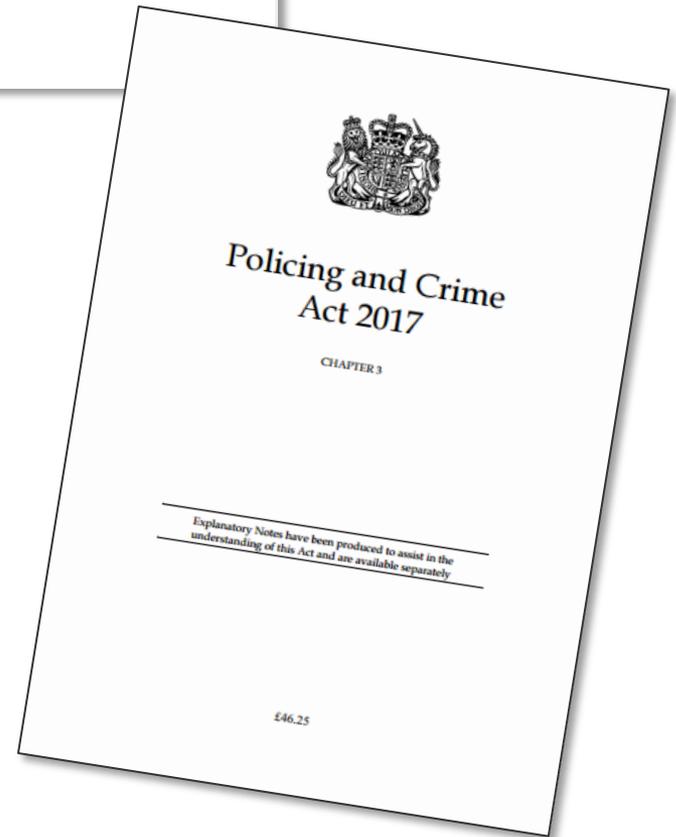
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Minibus licence loophole puts people at risk - councils

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ITV REPORT 3 December 2016 at 3:00am

Councils urgently warn of criminal record check loophole for minibus drivers



"Anyone who books or flags down a standard taxi has the reassurance that all drivers are vetted and licensed by councils. The same safeguarding checks should apply to anyone driving a nine to 16-seat minibus"

Cllr Simon Blackburn, Chair of the LGA's Safer and Stronger Communities Board



Closing the PCV “loophole” – what you can do

- ▶ Licensing authorities can address this issue through conditions attached to PHV operators’ licences. These might require, for instance, that:
 - ▶ All PHV bookings are fulfilled by a PHV licensed driver.
 - ▶ Where a PHV operator also holds a PSV operator’s license, PSVs should not be used for PHV booking without the informed consent of the hirer.
 - If there is a case (eg passenger numbers, luggage) for a PSV and PCV driver to be used in particular circumstances then the difference in the driver licensing requirements should be explained and explicit consent obtained.

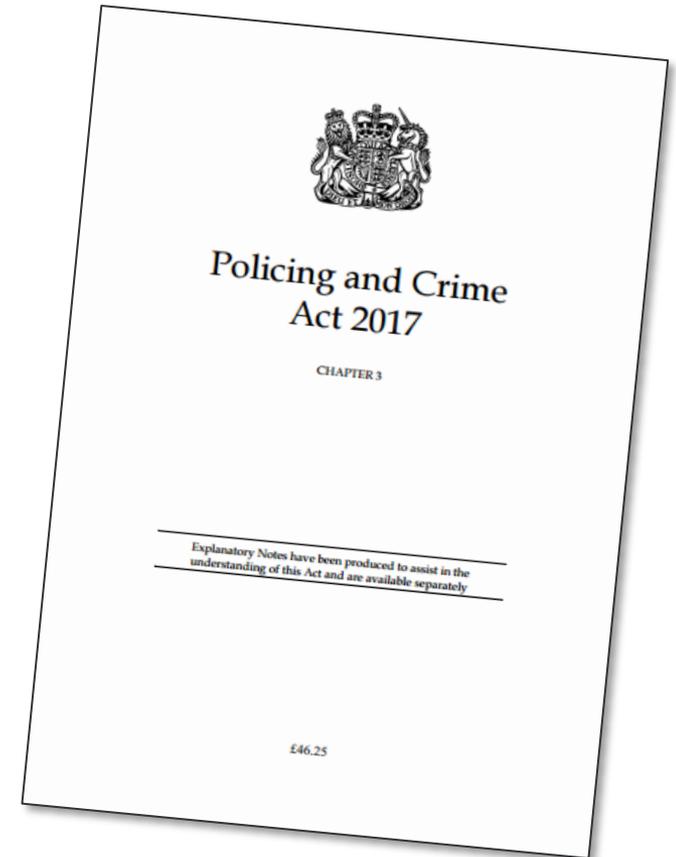


Policing & Crime Act section 177

Licensing functions under taxi and PHV legislation: protection of children and vulnerable adults

(1) The Secretary of State may issue guidance to public authorities as to how their licensing functions under taxi and private hire vehicle legislation may be exercised so as to protect children, and vulnerable individuals who are 18 or over, from harm.

(4) Any public authority which has licensing functions under taxi and private hire vehicle legislation must have regard to any guidance issued under this section.





Section 165-167 of Equality Act 2010

- ▶ Section 165 – Duties on the driver of a designated taxi or PHV.
- ▶ Section 166 – Exemption certificates for drivers (already in force, but no prescribed format for exemptions).
- ▶ Section 167 – Lists of wheelchair accessible vehicles maintained by the licensing authority.
- ▶ Commencement, in full, on 6th April 2017.





s165 – Duties on drivers of designated vehicles

- ▶ These are:
 - ▶ to carry the passenger while in the wheelchair;
 - ▶ not to make any additional charge for doing so;
 - ▶ if the passenger chooses to sit in a passenger seat, to carry the wheelchair;
 - ▶ to take such steps as are necessary to ensure that the passenger is carried in safety and reasonable comfort;
 - ▶ to give the passenger such mobility assistance as is reasonably required:
 - to enable the passenger to get into or out of the vehicle;
 - if the passenger wishes to remain in the wheelchair, to enable the passenger to get into and out of the vehicle while in the wheelchair;
 - to load the passenger's luggage into or out of the vehicle;
 - if the passenger does not wish to remain in the wheelchair, to load the wheelchair into or out of the vehicle.



s166 - Exemption certificates

- ▶ A licensing authority must issue a person with an exemption if satisfied that it is appropriate to do so:
 - ▶ on medical grounds, or
 - ▶ on the ground that the person's physical condition makes it impossible or unreasonably difficult for the person to comply with the duties at s165.
- ▶ Exemption certificates have no prescribed format (and can already be issued)
- ▶ Also needs an exemption notice, displayed in the vehicle which must be in the prescribed format, once there is one (to be set out in regulations shortly).
- ▶ No provisions to exempt a person from only some of the s165 duties.
- ▶ Appeal to a magistrate's court against a refusal to grant an exemption.

SECTION 166 EQUALITY ACT 2010

NOTICE OF EXEMPTION

Name of licensing authority _____

Driver's name _____

Taxi or Private Hire Vehicle _____

Licence No. _____

The person named above is exempt from the duties to provide mobility assistance to passengers in wheelchairs which are contained in section 165 of the Equality Act 2010.

This notice expires _____ 20 ____





s167 - Lists of Wheelchair Accessible Vehicles

- ▶ A licensing authority may maintain a list of wheelchair accessible vehicles
- ▶ Vehicles can be either a taxi or a private hire vehicles which meet “such accessibility requirements as the licensing authority thinks fit”.
- ▶ “Accessibility requirements” are “requirements for securing that it is possible for disabled persons in wheelchairs:
 - ▶ to get into and out of vehicles in safety, and
 - ▶ to travel in vehicles in safety and reasonable comfort, either staying in their wheelchairs or not (depending on which they prefer).
- ▶ List can include vehicles only when they are used under a restricted PSV operator's licence (s12 of the Transport Act 1985).
- ▶ Appeal to a magistrate against a vehicles' inclusion on the list.



Statutory guidance - section 167(6)

- ▶ The Secretary of State may issue guidance to licensing authorities as to:
 - ▶ the accessibility requirements which they should apply
 - ▶ any other aspect of their functions under sections 165-167.
- ▶ Guidance (currently being finalised) is likely to recommend that:
 - ▶ all licensing authorities maintain a list of wheelchair accessible vehicles for both taxis and PHV fleets.
 - ▶ lists should set out the details of the make and model of the vehicle.
 - ▶ lists should include the name of the driver and/or PHV operator.
 - ▶ licensing authorities should publish a separate, non-statutory list of vehicles accessible to passengers in wheelchairs if they transfer from their wheelchair.
 - ▶ licensing authorities put in place a clear transparent and consistent process for handling exemption applications (if they don't have them already).



Transition & practical issues

- ▶ Need to put manageable transition procedures in place, including communications with your license holders.
- ▶ Publish statutory list under section 167 when you have the procedures in place.
- ▶ Decide before 6 April 2017 whether any existing lists will be a statutory list under s167 on that date (and be very clear in your documentation if they are not).
- ▶ Exemption notices need to be issued to new and existing exemption holders promptly once the regulations specifying the format are in force.
- ▶ You may wish to review your operator and driver licence conditions to aid enforcement.

If you have a statutory list under s167 but have not issued exemption certificates AND notices, any driver of a vehicle on your list will be committing a criminal offence if they don't fulfil the duties under section 165 - whatever their health.



Next steps (and potential timescales)

- ▶ Statutory guidance on sections 165-167 of Equality Act 2010 (February).
- ▶ Regulations on format of prescribed exemption notices under section 166 of the Equality Act 2010 (in force by end of March 2017).
- ▶ Full commencement of sections 165 and 167 of Equality Act 2010 (6th April 2017).
- ▶ Consultation on draft statutory and updated best practice guidance to licensing authorities (spring 2017).
- ▶ Response to the Law Commission report on taxi and PHV licensing.