



Agent / Principal Status

On 8th Feb 2024, the Department for Infrastructure (DFI), via the DVA Taxi & Bus Licensing Department, sent an email to all NI Taxi Operators with the attachment “Taxi Operator Notice Advising of change to licensing regs re Uber Judgement” The email was received by a small number of operators, not all. Many of those who did receive it were not aware of the implications of the proposed changes for their Passengers or their business.

DFI Proposal

The DFI confirmed that, under pressure from the UBER legal department, they propose to change The Taxi Operators Licensing Regulations (Northern Ireland) 2012) following the outcome of a number of Court rulings in England and Wales. “Uber BV and others (Appellants) v Aslam and others (Respondents 3290.pdf (bailii.org)” and “Uber Britannia Limited v Sefton Metropolitan Borough Council & Ors”. UBER, having been made Principal for their bookings in London is now trying to have the same legislation imposed on other operators across the UK, despite operating under a substantially different business model.

In essence, the DFI are proposing to change legislation in NI such that a Taxi Operator, currently the “Agent” for a Passenger booking becomes the “Principal” for the Passenger booking. We can see no legal requirement and no demand from either Officials or Elected Representatives to make these changes in NI.

The DFI has advised “In advance of the work being carried out by the Department all NI Taxi operators may want to consider changes to their business model that will ensure they are aligned with the above requirement from the court judgment. This may include considering whether changes are required to written terms and conditions, the booking process and considering any other changes that may be required to operations to ensure regulatory compliance.”

We believe that the DFI are unaware of the implications of the proposed changes

Context

Taxi operators in NI have significant concerns about the implications of this change for Passengers and for the industry. We are further concerned with the language being used by the DFI, which seems to infer a “done deal” despite the department being unaware of the differences between licensing areas, operating models, outstanding appeals, Government consultation and other prospective legislative changes in addition to other existing legislation which this will impact upon

- The London ruling referred to doesn't apply outside London and there is no legislative reason to enforce it elsewhere
- The Sefton ruling is subject to appeal and those licensing authorities in England which may be affected by it are not implementing any licensing changes pending the outcome of the appeal.
- The Taxi Operator “BOLT” won a separate case against HMRC in which they argued that the UBER rulings didn't apply to other operators. This is also subject to appeal.
- The UBER Business model is significantly different from how the majority of Taxi operators work in NI. UBER take payment from the Passenger only via card payment. With most NI Taxi Operators, payment is made by the Passenger directly to the Driver and the majority of fares are paid in cash.
- In the March 2024 budget, the Chancellor stated “*The government will launch a consultation on the impacts of the July 2023 High Court ruling in Uber Britannia Ltd v Sefton MBC in April. The government is committed to exploring a range of viable options to ensure that this court ruling does not have any undue adverse effects on the private hire vehicle sector and its passengers*”



- The DFI Minister, responding on 12th March to a written Assembly requestion ([AQW 7528/22-27](#)) regarding the proposed legislation change said *“My officials are currently assessing what legislative changes may be needed to reflect and align with the recent court rulings and I will make a decision on this issue in due course.”*

The NI Taxi sector is concerned that the Minister and the Department may advance their legislation without being aware of its implications, and without due consideration of consultations and appeals currently underway

Related legislation / factors

HMRC have in recent years been revising their position on whether VAT should be liable on Taxi journeys

- The established position was that if a Taxi Operator took payment directly from the Passenger (for example, with business accounts) then the Taxi Operator was the Principal for that booking, and if they charged an administration fee for operating the account, VAT was chargeable on the administration fee element only.
- HMRC published information of Private Hire and VAT applicability for Account and other bookings <https://www.gov.uk/guidance/how-vat-applies-to-taxis-and-private-hire-cars-notice-70025>
- HMRC subsequently advised that VAT would be chargeable on every journey should the Taxi Operator become the Principal for that journey, and that the fares collected by drivers under that Operators licence, exceeded the VAT threshold which currently stands at £90,000 PA.

This DFI legislation change will make the Taxi Operator the Principal and make the HMRC position on VAT applicable for every Operator, for every booking in NI

Implications for Taxi Passengers

- Taxi Operators (likely any Operator with two or more taxis or a single Driver who perhaps does school runs / tours) will have to charge all Passengers VAT on their fares, pushing fares for all users up by 20% and making Taxis unaffordable for many.
- In order to ensure collection of VAT on behalf of HMRC, Taxi Operators may have to take payment for fares directly, using only credit / debit card and via an online booking platform or APP
 - Passengers who do not qualify for a credit or debit card will be excluded from booking, instantly excluding some of the poorest members of society who rely on Taxis the most.
 - Passengers who are not “tech friendly” such as the elderly will have more difficulty booking by online means
- To compensate for the loss of income from fewer Passenger bookings, Drivers / Operators may have to increase fares further (See Class C note below) to address shortfall, putting further pressure on Passengers

Implications for NI Taxi Industry

All Taxi Drivers / Operators with a fare income above the new VAT threshold of £90,000 per annum will be affected. At a minimum, this will be the 159 large Operators (Operators with 3 Drivers or more) representing the vast majority of Drivers in the Taxi Sector in NI. Implications for Drivers / Operators could include

- Current Taximeters and data devices may need to be replaced at significant cost as they cannot accurately account for VAT
- Increased insurance premiums for both Operator and Driver due to ambiguity of “ownership” of Passenger



- Increased administration, but loss of jobs in call centres / Passenger facing roles
- Increased card / payment platform costs
- Further loss of Drivers and a reduced ability to service Passengers at a time when Driver numbers are already at an all-time low
- A decrease in Passenger numbers due to increased fares and those Passenger groups now excluded from booking a taxi. This reduces Driver income.
- Further increase in the size of the illegal Taxi Sector in Northern Ireland putting Passenger welfare at risk

Implications for DFI

With the current metering system in use by most Taxi Drivers made unusable, Taxi Companies may have no choice but to change classification to Class C as a last resort. This will

- Virtually eliminate any control the DFI has in setting a maximum Taxi Tariff in NI
- Wipe out the income the DFI receives from meter testing of these Taxis in NI
- The proposed legislative change will likely make the DFI (and potentially others) subject to a legal challenge

Industry response

UBER, a global company operating with no staff or investment in NI has instigated this change through using their legal department to put pressure on the DFI to change legislation in NI. UBER are licensed as Class C in NI, something which in 2016, the then Infrastructure Minister Chris Hazzard sought to end when he stated that class C was "intended for use by, for example wedding, funeral and novelty vehicles and not as a general taxi class. I am going to look to close the loopholes with class C so if that has questions or issues for people they have to consider that,"

Why are the demands of a non NI based private company being considered when consultation and appeals are outstanding and there is no appetite for these changes from Elected Representatives, Officials, the Taxi sector, or members of the public?

This legislative change is subject to negative resolution and must pass several steps before becoming law. The Minister, The Committee for Infrastructure and the Assembly all have the power to prevent this proposal from advancing and seriously disadvantaging members of the public, especially those already suffering most from the cost of living crisis.

We are asking for your support now to help quash this proposal, to protect your communities and the Taxi sector and in doing so, save the DFI (Minister, Committee Members and Officials) the time, costs and undoubtedly negative PR that will arise should it progress. We are asking you to join us in lobbying your local MLA's, MP's, Councillors, and other groups that may have influence such as those representing the elderly and the disabled

If you would like to add your name to our list of operators opposed to this proposed change, or if you would like further information about the change and the efforts being made to prevent it, please email contact@ltoa.co.uk or visit www.ltoa.co.uk/site for updates as they are published