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Isle of Man Road Transport Licensing Committee

Annual Report 2010
for the year ended 31st March 2010

Laid before Tynwald by the Road Transport Licensing Committee

November 2010

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Introduction

This report has been prepared with a view to providing information relating to the work of the Road Transport Licensing Committee (RTLCL) for the year ended 31 March 2010.

It is important to note that the RTLCL acts as an independent tribunal body with a duty to enforce the regulatory provisions of the Road Transport Act 2001 (the Act), in order to ensure, so far as practicable, there are at all times available on the Island, sufficient, safe and efficient systems of public transport to meet the requirements for the time being of the public.

The Act provides for the licensing and registration of all Public Passenger Vehicles (PPV's) on the Island, which includes taxis, Private Hire cars, minibuses, buses and coaches.

It is the duty of the RTLCL to promote the policy and purposes of the Act, and the Committee must not act so as to frustrate the legislative purpose approved by Tynwald.

The Committee

The RTLCL consists of 5 members who are appointed by the Council of Ministers subject to the approval of Tynwald. Members may hold office for a period of 5 years, and 4 of the existing members were re-appointed in February 2007. The appointment of the 5th member was subsequently approved in February 2009.

The current membership of the Committee is as follows:-

Mr David Evans (Chairman)
Mr J Keith Watterson (Vice-chairman)
Mr Alwyn C Collister
Mr John M Wormald
Mr Fred A Peck

Goods Vehicle Operator Licensing

The Act also embraces the operation of Goods Vehicles, and regulations for the licensing and registration of such vehicles are currently being drafted by the Department of Infrastructure.

The Committee looks forward to the introduction of such regulations, and to being able to promote and regulate quality and safety in respect of goods vehicles on the Island.

Meetings

During the year, the RTALC held 41 meetings, 18 of which were public hearings. A total of 70 applications relating to Ply for Hire taxis, and Private Hire cars and minibuses were publicised during the year, of which 22 were approved, 31 refused, with the remaining 17 being withdrawn.

The Committee granted approval for an additional 6 Ply for Hire taxis in the East District, all of which are conditioned to providing a service to wheelchair and mobility impaired persons with a specially adapted vehicle. In addition, approval was given for a further 9 Private Hire cars which are all Executive Class vehicles.

There was a significant increase in the number of public hearings and applications processed from the previous year, as the Committee was tasked with hearing a large number of applications for taxi licences that had been pending for some considerable time due to the difficulties and delays caused by the transitional provisions of Schedule 2 of the Road Transport Act 2001.

The workload of the Committee and its staff is heavily focused on issues and difficulties surrounding the licensing of Ply for Hire taxis and Private Hire cars and minibuses, and on disciplinary and tribunal sessions involving Public Passenger Vehicle operators and drivers.

Licensing Statistics

As at 1 April 2010, the RTALC was responsible for the licensing and registration of 214 PPV Operators, 541 vehicles, of which 233 are taxis; and 1,400 PPV drivers, of which approximately 600 are taxi drivers.

A total of 173 new applications for PPV Driver Licences were received during the year, 62 of which were for taxi driver licences, and the remaining 111 for minibus and bus licences. The Committee also processed 217 PPV Driver Licence renewals.

Tribunal Sessions

The Committee held a number of disciplinary hearings and Inquiries during the year. One operator had his Operator Registration and Ply for Hire taxi licence revoked, and another had his registration and licence suspended. In addition, a period of suspension was imposed in respect of one PPV Driver.

Safety

The RTALC has made provision for specialist and certificated training opportunities for PPV drivers in the care and handling of wheelchair and disabled passengers, which is supported by the Department of Trade & Industry.

PPV drivers can now avail themselves of this new training initiative, and a total of 20 drivers having now been certificated in the care and handling of wheelchair and disabled passengers.

The Committee has also previously issued a public safety leaflet to raise awareness and a better understanding of the services provided by taxis and Private Hire cars and minibuses.

Quality

It is recognised that drivers of Ply for Hire taxis and Private Hire cars and minibuses play a significant and vital role in providing services to the public, and a specialist course has been designed for drivers which concentrates on customer care and a Manx Welcome.

As at 1 April 2010, a total of 207 drivers had been accredited to the required standards. Certificated Drivers are issued with "Manx Welcome" lanyards and badges for easy identification.

RTLC Website

A new website was introduced in December 2008, www.gov.im/rtlc, to assist operators and drivers, and the public, in gaining access to information, and in raising awareness of the Committee's functions and responsibilities.

Staff

The RTLC is supported by a small team of staff comprising of a Secretary, an Administrative Officer, and a part-time Inspector with responsibility for enforcement.

Much of the staff's time and resources continues to be taken up in dealing with new challenges, and a wide range of problems associated with the licensing of taxis. It is evident that whilst the present level of difficulties continues to exist with regard to taxi licensing, current staff resources could not possibly cope with the additional workload generated by the proposed introduction of Goods Vehicle Operator Licensing, and consideration will need to be given to a review and evaluation of staffing to meet future demands and responsibilities.

Advisor

A specialist advisor, Mr Michael Hicks, had been appointed to provide assistance and guidance to the Committee in relation to the introduction of the new legislation in April 2002. However, following the sad and untimely death of Mr Hicks in 2002, the Committee has, since that time, been tasked with carrying out their duties and responsibilities under the Act without the benefit of a professional advisor.

The Committee is pleased to note that the Department of Infrastructure has appointed a Transport Consultant, to draft regulations in readiness for the introduction of Goods Vehicle Operator Licensing.

It is anticipated that the services of the Consultant will prove beneficial to the Committee in providing the appropriate legal expertise, advice and guidance in connection with the introduction of Goods Vehicle Operator Licensing, and also in dealing with the ongoing difficulties associated with taxi licensing.

Training

In addition to Government's public service training opportunities, the RTLC has supported and invested in specialist training for its staff through residential Hackney and Private Hire courses organised by the National Association of Licensing Enforcement Officers (NALEO). Such courses are recognised nationally as part of the process for qualification for BTEC awards in licensing and enforcement.

Expenses

The expenses of the RTLC are met from funds provided by Tynwald, and are supplemented by income from licensing fees. The Committee has kept expenditure within the approved limits, but it is recognised that the current fees set by Treasury do not contribute significantly to reducing net expenditure, or to achieving self-funding.

Net expenditure for the year ended 31 March 2010 was £118,995, and it is noted that expenditure has been maintained within budget for each financial year since 2002. Income from licensing fees and other items for the year ended 31 March 2010 totalled £31,545.

The Committee is mindful that licensing fees have not been increased since April 2002, and that a review of the fees has been delayed in order to await a decision by Tynwald in respect of Schedule 2 of the Act.

Taxi Fares

A review of the maximum fares to be charged by Ply for Hire taxis was carried out by the RTLC from January 2010, with the revised fares taking effect from 1st April 2010.

The Committee and the taxi trade were conscious that there had been a significant increase in fuel costs since the last review, and that an allowance for such costs should normally be reflected in taxi fares. However, the Committee and the taxi trade in general were mindful of the needs of the public and the current economic climate, and the danger of increasing fares to levels which could prove counterproductive to the taxi industry. The Committee determined therefore that an increase of 20p be applied to the Flag Drop on Tariff 1 and Tariff 2, and that no increase be applied to the charges on distance and time.

It is important to note that Ply for Hire fares are set at a maximum by the RTLC, and that in principle they are open to downward negotiation between the passenger and the driver. The Committee has no power to set fares in respect of Private Hire journeys.

In reviewing the fares, the Committee paid particular regard to the needs of the travelling public, to what is reasonable to expect people to pay, and also the need to give taxi drivers sufficient incentive to provide a service when it is needed.

Legislation

The Act and the Transitional Provisions of Schedule 2 / Quantity Restrictions

Many of the challenges facing the RTLC continue to be generated by a requirement to limit numbers of Ply for Hire taxi licences, and to apply a District or zoning licensing system for Ply for Hire taxis, in accordance with the transitional provisions of Schedule 2 of the Act.

It is important to note that the Act itself is intended to de-limit numbers of taxi licences, and to make provision for all-Island taxi licensing. There is no provision in the Act for the Committee to assess or determine a need for new taxi licences. The transitional provisions of Schedule 2, are therefore in conflict with the purpose and intentions of the Act.

The transitional provisions of Schedule 2 of the Act were originally intended to apply for a 5-year period from 1 April 2002 until 1 April 2007, but Tynwald decided in October 2005, to delay a decision with regard to the removal of the temporary provisions until 1 April 2008. A Motion was also carried at that time, to the effect that the Minister for Transport should commence to undertake such consultations as are necessary with a view to the Department submitting an Order to Tynwald for approval to remove all or part of the transitional provisions by 1 April 2008. However, such Order was delayed, and Tynwald subsequently decided in May 2008 that the Department should carry out further consultation with regard to its proposal to revoke the transitional provisions of Schedule 2 of the Act, and to report its findings to Tynwald by November 2008. It was subsequently announced in Tynwald that the report would be delayed until February 2009.

The RTLC then issued a Policy Statement on 13 January 2009 to explain that since an early resolution of the difficulties presented by the continuing delays was unlikely, the delay in hearing outstanding applications could no longer be justified. Tynwald then passed a Motion on 20 January 2009 to the effect that the RTLC should delay the resumption of hearings until after the Department reports to Tynwald in March 2009. The Motion was acknowledged by the RTLC.

The Department's report was presented to Tynwald in March 2009. The report contains a number of wide ranging recommendations which, "rely on the implementation of them all to secure the validity and effectiveness of them individually". It is also noted from the report that if the recommendations are to be accepted, then there will be a need for changes to primary legislation, which the Attorney General's Chambers estimate will take at least 18 to 24 months to come into force. It was noted that Tynwald had agreed at the March sitting, that the Department be required to undertake further consultation on its recommendations before reporting back to Tynwald again in June 2009.

Tynwald subsequently received the Department's "Report on the Consultation on the Effects of the Recommendations proposed to the Road Transport Act 2001", in July 2009, and following a lengthy debate the Report, which contained a raft of 13 separate recommendations, was approved by Tynwald as "the best and most appropriate approach to improving the Island's taxi services".

It is noted that in response to a question in Tynwald in November 2009, the Department confirmed that a consultant had been appointed to advise on the implications of the recommendations approved in July 2009, and also to assist with the consultation and to draft instructions to implement the relevant changes to legislation.

The Committee is pleased to note that Tynwald has acknowledged the difficulties faced by the RTLC, and also that the Committee is duty bound to carry out its responsibilities under the Act by proceeding with the hearing of outstanding applications.

The Committee decided therefore, that due to the ongoing delays, it was reasonable to proceed with hearings of the outstanding applications as soon as possible.

Whilst it is disappointing to note that changes to the legislation are still awaited, the RTLC continues to be committed to discharging its duty and obligations in accordance with the existing legislation. However, the Committee cannot function effectively whilst the current conflict exists within the Act. It is evident that a significant amount of time and resources has been taken up in dealing with quantity controls, rather than quality controls, and that any decision by the Committee to grant or refuse a licence is open to legal challenge.

The Committee notes that Tynwald's decision to retain part of the transitional provisions of Schedule 2, and to implement additional changes to the legislation, will prompt a full review of the Act and the subordinate regulations that the Committee has a duty to enforce.

Sale of Taxi Businesses/"Trading" in Taxi Plates

In most cases where quantity restrictions are imposed, taxi "plates" or businesses command an artificial value. It is apparent that taxi licences in the East District of the Island have been valued at up to £40,000. This indicates that there are people who want to enter the taxi market and provide a service to the public. Concerns have been expressed within the taxi trade, with regard to a small minority of applicants who have been issued with "free" licences, who then subsequently decided to sell the business at a profit within a short timescale.

The licence or taxi "plate" is technically the property of the RTLC, and is not therefore available for sale. Regulations do however provide for the transfer or takeover of a taxi business, and the premium value of such a business is both artificial and unofficial in that there is no statutory provision to authorise such a value. The Committee does not have the power to prevent the transfer or takeover of a taxi business, or to restrict the sale of a business within a given timescale, even in circumstances where it is evident that a taxi plate is dormant and no actual business exists.

It is evident that whilst a great deal of uncertainty exists with regard to the potential impact on the taxi trade should Tynwald decide to remove part of the transitional provisions of Schedule 2 of the Act, businesses continue to be traded at artificial values even though a decision is imminent.

It is important to note that problems associated with the sale, and trading of taxi businesses or "plates" only arise where a limit is placed on the overall number of taxi licences, and it is evident that such difficulties will persist whilst the transitional provisions of Schedule 2 of the Act continue to provide for quantity controls.

Private Hire

It is important to note that applications to operate additional Private Hire vehicles are not subject to the transitional provisions of Schedule 2 of the Act, and that the Committee has

no authority to restrict the numbers of such class of vehicles. Services of Private Hire can also be operated on an all-Island basis.

It is evident that the vast majority of taxi journeys originate from a Private Hire booking, e.g. by mobile phone; rather than Ply for Hire, e.g. by being hailed at a taxi rank or in the street.

Renting of Taxi Plates

The RTLC shares the concerns of the taxi trade with regard to the apparent practice of "renting taxi plates". While such practice is illegal, it has not proved possible to identify the actual arrangements or agreements that exist, due to the reluctance of drivers and operators to provide any real evidence. The "renting of taxi plates" can, on occasions, generate income for a number of people, including the operator, the manager, and the driver(s).

It is important to note that problems associated with the "renting of taxi plates" only arise where a limit is placed on the overall number of taxi licences, and it is evident that such difficulties will persist whilst the transitional provisions of Schedule 2 of the Act continue to provide for quantity controls.

Taxi Districts or Zones

The Act provides for the introduction of an all-Island licensing system, which would likely increase the supply of taxis and the scope for customer choice. It would also likely promote fuel efficiency, and better utilisation of vehicles, time and resources.

The present District or zoning system which operates in accordance with the transitional provisions, can be confusing and frustrating to the public, who sometimes do not understand that a taxi is restricted to plying for hire in its licensed District.

Some members of the taxi trade are concerned that the removal of the District system will result in a proliferation of out-of town taxis in the Douglas area (East District), which could in turn result in a shortfall in the number of taxis available in other areas of the Island. The views and aspirations of taxi operators within the trade do however vary, depending on which District or area of the Island they are currently licensed to serve.

It is noted that Tynwald has approved a recommendation that legislation be amended in order to make provision for all-Island taxi licensing, but that such legislative change is still awaited.

Taxi Survey

Where a view is taken that a limit on the number of taxi licences can be justified, the issue is often addressed by means of a taxi survey, which must be carried out sufficiently frequently to be able to respond to any challenge to the satisfaction of the Courts. In England and Wales, 75% of taxi licensing authorities have no restrictions on numbers, or have voted to remove restrictions.

A survey was carried out on the Island in the Autumn of 2006, with the findings published in a report in December 2006. The report concluded that, "there does not exist a significant unmet demand for Ply for Hire taxis across the Isle of Man at this time", but also recommended that consideration should be given to the provision of further wheelchair and disabled access taxis.

Such surveys are largely concentrated on the ply for hire market at taxi ranks, as it is more difficult to assess demand from people who hail a taxi in the street; latent demand; or where journeys are booked under a Private Hire arrangement.

The Committee has expressed concern regarding the methodology of the survey carried out on the Island, and is agreed that if consideration is to be given to a further survey, then it would need to be of a different type to the one carried out in 2006.

Surveys can also prove costly, and while the anticipated life of the survey is 3 years, it should be noted that recent case law in Scotland provides that any assessment that pre-dates an application for a taxi licence is historical, and a survey conducted some time previously is worthless. A number of licensing authorities in Scotland have subsequently decided to remove their limit on taxi licences due partly to the case law, as the need to commission between 3 and 5 interim surveys per year was considered to be too costly.

The Committee understands that the taxi survey carried out on the Island in 2006 cost in the region of £27,000. Such survey had an anticipated useful life of 3 years, and so the findings are no longer valid, and would not likely stand up to legal challenge.

It is noted from the requirements of the transitional provisions of the Act, that in determining an application for a taxi licence, the RTLC must take into account, "**whether there are, or are likely to be,** enough taxi licences to fulfil all reasonable needs at all times and places". In such circumstances, the Committee would therefore need to be careful to ensure that when hearing applications for new licences, any assessment of demand at the time was not only current, but also forward thinking, in order to avoid the potential of a successful challenge in the Courts.

The Committee notes that the raft of recommendations approved by Tynwald in July 2009 included the provision of a legislative need or demand point to assist the RTLC in determining whether to issue additional Ply for Hire taxi licences. The Committee looks forward to the introduction of such legislation, as the question of quantity controls is by far the main difficulty facing the Committee.

Representative Bodies of the Taxi Trade

Representation of the taxi trade on the Island is very limited, and is primarily focused on the provision of taxi services in the East District (the Douglas and Onchan area), and at the Airport.

The two bodies that represent the trade are listed as the "Manx Taxi Federation", and the "Castletown and Southern Taxi Association".

Availability of Taxis

The RTLC continues to receive complaints regarding a lack of availability of taxis in certain areas of the Island, at certain times.

It is apparent that the actual number of taxis licensed is not the most appropriate measure of supply. It is evident that while some operators and drivers work long hours and provide a very effective service, others choose to work few hours, and in some cases licences are not used at all. It is worth noting that two identical numbers of taxis can easily manifest fundamentally different measures of supply, insofar as the numbers of drivers, or more accurately drivers hours worked, is a more accurate measure.

The Committee cannot control the hours worked by a driver or operator. It is important to note therefore, that the Committee does not have the power to restrict the issue of licences to full-time operators or drivers.

Mr D Evans, Chairman

Mr J K Watterson, Vice-Chairman

Mr A C Collister

Mr J M Wormald

Mr F A Peck

Brian E Leece
Secretary, RTL