EXPLANATORY MEMORANDUM TO

THE AIR QUALITY (TAXIS AND PRIVATE HIRE VEHICLES DATABASE) (ENGLAND AND WALES) REGULATIONS 2019

2019 No. 885

1. Introduction

1.1 This explanatory memorandum has been prepared by the Department for Environment, Food and Rural Affairs (the 'Department') and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 This instrument requires licensing authorities in England and Wales to supply certain information (vehicle registration marks and licensing information such as dates of granting vehicle licence etc.) relating to taxis and Private Hire Vehicles (PHVs) that have been licensed to operate in their area. The instrument enables the Secretary of State to create a database to host that information and for it to be shared for the purposes of enforcing local air quality measures, and in particular locally introduced Clean Air Zones that will apply charges in respect of taxis or PHVs. The database is necessary because it will ensure that taxis and PHVs can be differentiated from other vehicles when entering a Clean Air Zone.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

3.2 This entire instrument applies to England and Wales only because it only applied to licensing authorities that have functions in England and Wales (see regulation 2(1) of the instrument).

3.3 In the view of the Department, for the purposes of Standing Order No. 83P of the Standing Orders of the House of Commons relating to Public Business, the subject-matter of this entire instrument would be within the devolved legislative competence of the Northern Ireland Assembly if equivalent provision in relation to Northern Ireland were included in an Act of the Northern Ireland Assembly as a transferred matter and the Scottish Parliament if equivalent provision in relation to Scotland were included in an Act of the Scottish Parliament and the National Assembly for Wales if equivalent provision in relation to Wales were included in an Act of the National Assembly for Wales.

3.4 The Department has reached this view because it considers that the purpose of the instrument is the protection of the environment, which is within the devolved legislative competence of the Northern Ireland Assembly, the Scottish Parliament and the National Assembly for Wales.

4. Extent and Territorial Application

4.1 The territorial extent of this instrument is England and Wales.

4.2 The territorial application of this instrument is England and Wales.

5. European Convention on Human Rights

5.1 The Parliamentary Under Secretary of State for the Environment, Thérèse Coffey MP, has made the following statement regarding Human Rights:

"In my view the provisions of the Air Quality (Taxis and Private Hire Vehicles Database) (England and Wales) Regulations 2019 are compatible with the Convention rights."

6. Legislative Context

6.1 The instrument is being made to place a duty on licensing authorities to provide certain information relating to taxis and PHVs to a database which the Secretary of State may create and share with licensing authorities for the purposes of supporting air quality measures. The instrument makes provision necessary for implementing obligations of the United Kingdom under the Ambient Air Quality Directive 2008/50/EC and otherwise in the respect of management of air quality.

7. Policy background

What is being done and why?

7.1 In July 2017 the UK plan for tackling roadside nitrogen dioxide concentrations was published (available at: https://www.gov.uk/government/publications/air-quality-plan-for-nitrogen-dioxide-no2-in-uk-2017 or available for inspection at 2 Marsham Street, London SW1P 4JA). This plan established that Clean Air Zones (including a requirement for vehicle owners to pay a charge to enter, or move within the zone if they are driving a vehicle that does not meet the particular standard for their vehicle type) was the measure identified at the national level that would achieve compliance with statutory nitrogen dioxide limits in the shortest time. The plan requires certain local authorities to explore if they could find quicker alternatives, but a number of authorities have recently consulted on proposals for the introduction of a Clean Air Zone that will impose vehicle charges (the first are likely to start by the end of 2019).

7.2 To implement Clean Air Zones, local authorities may need to differentiate between taxis/PHVs and private vehicles. Local authorities only hold information on taxis/PHVs licensed within their own area so are not able to clearly identify and charge a taxi/PHV entering or moving around their charging Clean Air Zone which has been licensed by another authority.

7.3 These Regulations, using powers under the Environment Act 1995 require all licensing authorities (referring to all district and unitary councils outside of London and Transport for London) in England and Wales to submit certain information (e.g. vehicle registration numbers (VRN), start and expiry date of vehicle licences) about their licensed taxis/PHVS to a central database. Given the geographic location of charging Clean Air Zones it is important to ensure that all taxis registered in England and Wales are captured on the database.

7.4 The database will be designed and hosted in a way that complements existing processes wherever possible in order to minimise the burden on licensing authorities.

When a vehicle enters or moves within a charging Clean Air Zone, its VRN will be detected using an Automatic Number Plate Recognition camera. This information will then be checked against the central taxi and PHV database to identify whether it is a taxi or PHV. This database will in turn interact with other databases being developed for Clean Air Zones to identify whether the taxi/PHV meets the required emissions standard for the charging zone. If it does not and a charge has not been paid within the required timeframe, then a penalty charge will be issued.

7.5 The use of the database supports the delivery of the 2017 plan for tackling roadside nitrogen dioxide concentrations and local authority measures to improve air quality in their area. Legislation is needed because for Clean Air Zones to be effective it is dependent on having a complete data set for taxis and PHVs.

8. European Union (Withdrawal) Act 2018/Withdrawal of the United Kingdom from the European Union

8.1 This instrument does not relate to withdrawal from the European Union.

9. Consolidation

9.1 This instrument does not make any consolidation of earlier instruments.

10. Consultation outcome

10.1 A public consultation was carried out between 5 October and 2 November 2018 on the proposal to create a database to require licensing authorities to provide certain information on licensed taxis and PHVs on a weekly basis to the database (available at: https://consult.defra.gov.uk/airquality/identification-of-taxis-and-phvs-entering-charging/). Prior engagement had already taken place with licensing authorities and a roundtable was held during the consultation period with a number of taxi and PHV organisations. Just over one hundred responses were received to the consultation, about 40% of which were from licensing authorities. The majority of respondents were in favour of the database. Comments focused on the assumptions and costings made in the Regulatory Triage Assessment (RTA), the proposed frequency of upload of data to the database by licensing authorities, the scope of the database (which some felt should be broadened to include information on the driver of the vehicle) and the principle of charging taxis and PHVs for entering or moving around within charging Clean Air Zones.

11. Guidance

11.1 Guidance is being developed for licensing authorities. It will cover such aspects as the process for uploading data and data governance. This will ensure that data processing and sharing arrangements are open and transparent and are in line with the General Data Protection Regulation. We are working with representatives from licensing authorities as well as taxi and PHV organisations to develop the guidance.

12. Impact

12.1 There is no, or no significant, impact on business, charities or voluntary bodies.

12.2 The impact on the public sector is limited to taxi/PHV licensing authorities as they will be required to submit data to the database.

12.3 An Impact Assessment has not been prepared for this instrument because there are no direct impacts on businesses. A Regulatory Triage Assessment has been prepared in order to assess the impacts on licensing authorities.

13. Regulating small business

13.1 The legislation does not apply to activities that are undertaken by small businesses.

14. Monitoring & review

14.1 The approach to monitoring of this legislation is that it will be reviewed internally once local authorities who have introduced charging Clean Air Zones have demonstrated that they have reached, and will continue to meet, compliance with NO_2 limit values and that a central database is no longer required. The Department intends to carry out this review within 5 years of the regulations coming into force.

15. Contact

15.1 Alison Maydom at the Department for Environment, Food and Rural Affairs Telephone: 0208 026 2699 or email: Alison.Maydom@defra.gsi.gov.uk can be contacted with any queries regarding the instrument.

15.2 Andrew Jackson, Deputy Director for the Joint Air Quality Unit, at the Department for Environment, Food and Rural Affairs can confirm that this Explanatory Memorandum meets the required standard.

15.3 Dr Thérèse Coffey, Parliamentary Under Secretary of State for Environment and Rural Life Opportunities at the Department for Environment, Food and Rural Affairs can confirm that this Explanatory Memorandum meets the required standard.