EXPLANATORY MEMORANDUM TO

THE PRIVATE HIRE VEHICLES (LONDON) (TRANSITIONAL AND SAVING PROVISIONS) (AMENDMENT) REGULATIONS 2006

2006 No. 584

1. This explanatory memorandum has been prepared by the Department for Transport and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 Transport for London may issue a temporary permit to any person who, before a specified date, duly applies for a private hire vehicle driver's licence for London ("a London PHV driver's licence") and pays the application fee. These regulations extend the date from 1st April 2006 to 1st January 2007.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None

4. Legislative Background

4.1 These regulations amend regulation 5 of the Private Hire Vehicles (London) (Transitional and Saving Provisions) Regulations 2003 (S.I. 2003/655) ("the 2003 Regulations").

4.2 The 2003 Regulations contain transitional provisions in connection with the introduction of private hire vehicle driver licensing under the Private Hire Vehicles (London) Act 1998 ("the 1998 Act"), the relevant provisions of which were brought into force in 2003 (the Private Hire Vehicles (London) Act 1998 (Commencement No. 2) Order 2003 S.I. 2003/580 C.30).

4.3 The Greater London Authority Act 1999 transferred most of the functions of the Secretary of State under the 1998 Act to Transport for London ("TfL"). However, the power to make transitional provisions under section 37 of the 1998 Act remains with the Secretary of State (section 254(2) of the Greater London Authority Act 1999).

5. Extent

5.1 This instrument applies to England and Wales, but has no implications outside London.

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 The 1998 Act provides a framework for the licensing of private hire operators, drivers and vehicles in London. PHV driver licensing was introduced in 2003 to improve driver standards and passenger security.

7.2 In order to avoid massive disruption in the supply of London PHV drivers in the transition from an unlicensed regime for drivers to a licensed one, transitional regulations were made which enabled TfL to issue temporary permits to the 40,000 unlicensed "existing drivers" (i.e. the existing PHV drivers attached to licensed operators who registered with TfL on or before 1st June 2003).

7.3 An existing driver holding a temporary permit may continue to drive a private hire vehicle as if licensed until TfL determines his application for a London PHV driver's licence or – if no such application is to be submitted – until the final application deadline specified or agreed by TfL. However, if necessary, the permit may be revoked or suspended before that date.

7.4 It became apparent shortly after the introduction of PHV driver licensing that, notwithstanding the transitional arrangements for existing drivers, the supply of PHV drivers - and, as a consequence, the service to passengers – was being adversely affected by the length of time it was taking TfL to process licence applications from new would-be London PHV drivers ("new drivers"). The delay suffered by new drivers as a result of the administrative effort devoted to the assessment of existing drivers was contributing to a shortage of PHV drivers. In the transitional period, TfL has effectively had to administer two parallel driver licensing systems; one for existing drivers and one for new drivers.

7.5 To alleviate the shortage in London PHV drivers arising out of the introduction of the PHV driver licensing provisions of the 1998 Act, the transitional regulations were amended at the end of 2003 so as to extend the temporary permit system to new drivers who, before 1st April 2006, submit a full application for a London PHV driver's licence (including completed medical and Criminal Record Bureau forms) and pay the application fee.

7.6 A temporary permit issued to a new driver, like that issued to an existing driver, has effect under the 1998 Act as if it were a London PHV driver's licence and enables the holder to work as a PHV driver in London pending the determination of his application. Such permits expire after three months or on such later date as TfL may notify to the holder, unless the permit is revoked or suspended, or the application decision is made, before that date.

7.7 TfL expected to have processed all existing driver applications by the end of March 2006. However, despite TfL's efforts to streamline its administrative processes and maximise throughput, this has not proved possible. TfL has now licensed 26,000 drivers (approximately 54% of which were new driver applicants) and expects to complete existing driver licensing by the end of 2006.

7.8 TfL's original assumptions could not be based on any reliable management information to prove or disprove whether they were reasonable. Furthermore, TfL's ability to process existing drivers within the original timescale has been dependent upon a number of factors outside its direct control, such as:

- the ability/understanding of applicants to complete the various forms accurately;
- the willingness of applicants to respond promptly to requests for further information;
- the ability of GPs to complete medical forms clearly and accurately and to respond promptly to requests for further information; and
- the performance of the Criminal Records Bureau.

7.9 In light of the on-going administrative burden upon TfL of processing licence applications from existing drivers, and the shortage of drivers that has arisen since PHV driver licensing was introduced, these regulations extend to 1st January 2007 the date by which a new driver must submit his licence application and fee in order to qualify for a temporary permit. Without the extension, TfL forecast a possible 30% reduction in the number of new driver applicants over the coming months. Before making these regulations the Department for Transport consulted extensively with TfL, and TfL and the principal trade body for the London PHV trade fully support the amendment.

7.10 TfL is confident that, taking into account administrative improvements now in hand, a power to issue temporary permits to new drivers who apply after 1st January 2007 will not be required.

7.11 In assessing the need for these regulations a key consideration was the public safety risk of a further shortfall of PHV drivers (meaning that licensed operators would further struggle to meet passengers' demands and taxi touting would increase). This had to be weighed against the risk of issuing temporary permits to new drivers before their suitability to be a PHV driver has been fully assessed. A relevant consideration is that a temporary permit can be suspended or revoked in the event that a driver falls below the required standard.

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

8.2 The impact on the public sector is minimal. TfL administer the PHV licensing system on a full cost recovery basis and applicants for a London PHV driver's licence must submit a fee on application.

9. Contact

David Farmer at the Department for Transport Tel: 020 7944 2283 or e-mail: David.Farmer@dft.gsi.gov.uk can answer any queries regarding the instrument.