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## PP15 PLYING FOR HIRE – THE DEFINING FEATURE OF TAXIS, OR IS IT?

### PROVISIONAL PROPOSAL 15

The defining feature of taxis, the concept of “plying for hire”, should be placed on a statutory footing and include references to ranking and hailing.

This was the proposal put forward in May 2012 by the Law Commission following a year of extensive research into all existing taxi and private hire legislation. In October 2012 a specialist legal meeting was held at which the RMT legal officer attended to specifically discuss such a definition, progress appeared to be made and in January 2013 the RMT London Taxi Branch met with the Law Commission, where they stated that they were going to define plying for hire. However despite these assurances and having gained a consensus on this proposal, (see responses Taxi Globe edition 716) they have decided not only to ignore them, but are now suggesting something else not proposed as part of the consultation or of previous discussions. Needless to say we were bewildered and very disappointed when the interim statement was published. Why the sudden u-turn between the months of February – April?

### WHY PP15 IS SO IMPORTANT!

Taxis have been plying for hire in London for almost 400 years. The first rank was introduced in 1634 on the Strand. The first London Act was passed in 1831 and contains the term plying for hire “Every hackney carriage which shall be found standing in any street or place, shall, unless actually hired, be deemed to be plying for hire.....” As such a considerable amount of case law has developed over many years in relation to exploring and upholding the meaning of this term contained within the various Acts. Hunt v Morgan 1947, Cogley v Sherwood 1959, Eldridge v BAA 1970, Eastbourne v Sterling 2000, to name but a few.

The Hindley report (1939) stated: “An essential feature of a scheme of control for private hire vehicles would be to ensure that the vehicles do not infringe on the cabs privilege of plying for hire..... Accordingly we recommend that, whether or not legislation for the control of private hire vehicles is introduced there should be legislation to define the term plying for hire used in Acts relating to the control of hackney carriages”

In 1962 the opinion of the Home Office was that “Plying for hire involved three elements, exhibition, soliciting and availability and that the difficulty of proving that an unlicensed vehicle was operating illegally could be eliminated completely by legislative amendment of the law relating to plying for hire by abolishing the element of soliciting from the necessary ingredients of the offence”. In 1994 the separate offence of “touting for hire” was created under the CJPO Act making it illegal to solicit prospective passengers.



**Putting the London Cab back on Point**

The Maxwell Stamp report (1970) stated: “One further comment on plying for hire in the context of the definition of a Hackney Carriage is that it is the vehicle itself which is described as plying for hire. Although the situation of the vehicle must depend on human agency for the purpose of the definition the character of that agency is irrelevant. The uncertainty surrounding this definition has prevented any agreement on the line to be drawn between fair and unfair competition....”

### NO TO COMPROMISE!

Over seventy years ago in 1939 there were only 7,811 taxis licensed and an estimated 2,000 private hire vehicles (not subject to licensing) operating in London, much lower figures compared with today. However with the emergence of minicabs the importance of defining plying for hire was clearly understood in the interests of developing fair policy regarding the competition that exists in providing door to door transportation where a level playing field does not. It is worth noting that the population of London in 1939 was 8.6 million and today it is only 8.3 million!

We believe our entitlements are being infringed, consequently for a two tier system to operate fairly and safely it is both in the public and the taxi trades interests that plying for hire is defined. There can be no compromise on this issue. Any repeal of this term along with the offence of illegally plying for hire will make our case law redundant, putting us in a far worse position than the status quo! It may be prudent to define pre-booking, however it is paramount that PP15 proceeds to ensure the future survival of the world’s best taxi service, particularly now that PHVs are licensed, not to mention the plethora of Pedicabs plying in the capital with impunity.

It is said “Where there is a will - there is a way”

This was clearly the case in 1939 – What about now? PP15 Plying for hire – The defining feature of taxis, or is it?

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