HOUSE OF LORDS

# Select Committee on Economic Affairs

## Finance Bill Sub-Committee

## Uncorrected oral evidence: Draft Finance Bill 2020-21

Monday 12 October 2020

4 pm

Watch the meeting

Members present: Lord Bridges of Headley (The Chair); Baroness Bowles of Berkhamsted; Lord Butler of Brockwell; Viscount Chandos; Lord Forsyth of Drumlean; Baroness Kramer; Lord Monks; Lord Rowe-Beddoe.

Evidence Session No. 3 Virtual Proceeding Questions 21 - 30

### Witnesses

I: James Button, President, Institute of Licensing; John Miley, National Chair, National Association of Licensing and Enforcement Officers.

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# Examination of witnesses

James Button and John Miley.

Q21 **The Chair:** Good afternoon and welcome to this evidence session of the Finance Bill Sub-Committee. This meeting is being broadcast live via the parliamentary website. A transcript of the meeting will be taken and published on the Committee website. You will have the opportunity to make corrections to that transcript where necessary.

Thank you very much to our witnesses for joining us this afternoon. Can you introduce yourselves?

***James Button:*** Good afternoon. I am a solicitor by profession. I am also president of the Institute of Licensing, and that is the capacity that I am joining you in this afternoon.

***John Miley:*** Hello. I am the licensing manager at Broxtowe Borough Council in Nottinghamshire. I also chair the National Association of Licensing and Enforcement Officers. I also, for my sins, chair the LGA Licensing Policy Forum.

Q22 **The Chair:** I will kick off on the topic of discussion: the tax checks for licence renewals. Can you start by clarifying the exact problem, as far as you see it, which this measure is trying to tackle, the extent of non-compliance, and whether this is a required and necessary step to be taken?

***James Button:*** The aim, as I understand it, is to catch people who trade in the black economy or the cash economy and to ensure that they are paying the correct amount of tax on their income. Taxi licensing and taxis generally have traditionally been very much a cash operation. That has started to change over the last few years with the app-based systems—Uber and so on—where you register a payment card with the app and do not have money changing hands in the vehicle. This has accelerated even more with the pandemic, with people being encouraged to use cashless transactions. It is still very significantly, certainly away from the big cities, a largely cash-based operation.

Scrap metal is slightly different, because since 2012 it has been illegal for anybody to buy or sell scrap for cash, although whether that is actually observed is a moot point. The increased theft of scrap metal, especially lead from churches, for example, would suggest that that is not being complied with.

What percentage of people in these industries do not declare all their income to HMRC is probably impossible to answer. You are trying to judge an unknown quantity. The perception is certainly that it is an issue. To that extent it seems, to me and to the institute, a reasonable approach to take what is certainly being heralded as a fairly straightforward step to address this issue. It will perhaps be only in the fullness of time, if this procedure takes place, that you can analyse how much extra has been brought in from that industry and then gauge whether it was a worthwhile move.

***John Miley:*** I agree very much with what Jim has said. I would add that taxi licensing is very well regulated and that they go through a number of processes to register with the licensing authority. We are adding another element to that, which may or may not be welcomed but it will certainly help clarify whether they are tax-compliant, and we support the aim to make all taxi drivers tax-compliant.

**The Chair:** Mr Button, you make a case that there might be a number of people who are not tax-compliant and are dodging tax, but are they really likely also to be the people who will be law-abiding and getting these licences? Surely if you are law-abiding, the chances are you will also be complying with your tax requirements, or am I just being naive here?

***James Button:*** I would like to think that, and I am sure that the vast majority of people who are involved in these industries are law-abiding; they obtain their licences and pay the correct amount of tax. As I said earlier, it is an unknown; that is the problem. Wherever you have an industry where cash is a significant element, there will always be temptation for some people, even if they are regulated and even if they hold the licences. This ensures that they are registered for tax, but it does not go any further to ensure that they put all their cash income through their books.

**Lord Forsyth of Drumlean:** Baroness Bowles will raise this in the next question, but having read the briefing I am not entirely certain exactly what is involved in deciding that people are tax-compliant. Having a tax number is one thing and is very straightforward, but it is more than that, surely, if it is going to work.

Q23 **Baroness Bowles of Berkhamsted:** In the consultations on these proposals, HMRC said that it recognises the importance of minimising burdens on licensing authorities, that there should be a system that works for them and that the costs of the additional checking would be recoverable through licence fees. I am not sure if that meant it thought fees would go up or that more would come in.

Do you sense that those caveats were abided by? In any event, how straightforward is the process of tax checks, which is coming back to where we got to at the end of the last question? Is there any scope for simplifying or streamlining it, or will you, as Mr Button just said, find out that they have a tax number and that is the end of it?

***James Button:*** Looking at the draft Bill, I am afraid the answer is that it will depend on how good the system that HMRC sets up is. The idea is quite clearly that it is an online system whereby an applicant for either a new licence or a renewal, for which the process is slightly different, informs the local authority. The local authority can then, in the case of an applicant, give them information that they must ensure that they are registered for tax. In the case of a renewal, where they should already have been paying tax, the authority will be able to check, via the HMRC website or system, that that is the case.

It will be dependent on how well that system works. If this is straightforward and if it is an easy, well-thought-out and well-functioning website, it probably will not add an awful lot of time and effort to the process, although it will add time and effort, which in turn will add cost to local authorities' role. I am afraid the devil is in the detail and, until this system is up and running and being tested to destruction to see how far it can go, we will not be able to answer that question.

There are some very good government websites. There are some truly appalling government websites. It remains to be seen where this falls. I hope it comes into the good end. If it does, the system should work. Beyond that, I am not an IT expert and I cannot comment any further.

***John Miley:*** We have seen some demonstrations of the basic system, which appears to work quite well in that we get a green tick if the applicant is registered and a red cross if he is not. So that is fairly straightforward.

In terms of the burden on licensing authorities, there are a few issues. We will need initially to communicate the changes to all those affected by it, which will take some doing. We will also have to confirm the checks. We will have follow-up inquiries; there is nowt so sure.

For many taxi drivers and scrap metal dealers, English is not their first language and they may be challenged by the information provided. It will be up to the licensing authorities to provide that. We have something like 360,000 taxi drivers licensed across the country. That will take some communication and will incur some costs to the local authorities, which will eventually have to pass them on to the drivers in increased fees.

We will have to provide information to new applicants. I would hope that the HMRC team will provide some clear and concise information that we can use, because it is very important that the licensing authorities send out the same message across the country. It does not want diluting by various different interpretations of it by various councils, so we need a very clear guide from the HMRC team as to exactly what the information should be. Perhaps they should publish that for us.

For existing applicants, again this will be challenging. We have drivers who are licensed for a year, some for two years and some for three years, so a driver may be operating outside the system for up to three years before he has to come back to us and then get involved. We will not be able to check that. We will also have to amend our application forms, on our paper copies and our website. There will be a substantial amount of work for licensing authorities and, as I say, that will incur costs, which will have to be passed on to the applicants themselves.

**Lord Forsyth of Drumlean:** Perhaps I am being thick here, but if the purpose of this is to stop people who are taking fares in cash not declaring them as taxable income and they are earning, say, £10,000 a year, under this requirement to be registered will they not just declare £1,000 and pocket the rest if they are dishonest? I really do not see what is being achieved by this, other than creating a whole load of bureaucracy and additional costs for honest people.

***John Miley:*** It is not within the remit of licensing authorities to go any further than check they are compliant. As Mr Button said already, it does not mean they would declare all their income. We have no way of being involved in that process at all. I certainly would not want licensing authorities to become a subsection of the tax-collecting unit either.

**Lord Forsyth of Drumlean:** Why are you supporting it?

***John Miley:*** I would be happy to see that our drivers are compliant in the first place. That is a first step. Beyond that, we have no remit.

**The Chair:** It could cost you money and time. Is that really in everyone's interests?

***John Miley:*** That is a question for you to decide. We have been asked to take this forward as an industry in order to achieve the aims that the HMRC team would like. We have had a number of consultations with them. Although it will be a burden on the licensing authority, we do not see not supporting compliance as the way forward.

Q24 **Lord Butler of Brockwell:** Mr Miley, you said earlier that these checks would not necessarily be welcome to people seeking licences. That is the other side of the coin, is it not? If it is not welcome, is it right to impose this extra requirement on people who are otherwise perfectly law-abiding, just in order to catch those who have not registered for tax?

***John Miley:*** Yes. To be fair, it is not the licensing authority that will impose this. It will be HMRC that imposes this. We will purely be the administrative body of the process, and I see no reason not to support potential compliance.

**Lord Butler of Brockwell:** If that is the case, and if it is a burden, do you think that it might cause some people to become unlicensed, which would be even worse?

***John Miley:*** Yes, absolutely. There is always potential for it to drive those dishonest people underground, who may or may not already be there. One of the issues, particularly for taxi drivers, is that for a lot of them it is a part-time job. They will have a day job, through which they will probably already be known to the tax people anyway, so it will potentially be difficult to pin down who needs to pay tax and who does not. There is much more potential in scrap metal for it to be driven underground.

**Lord Butler of Brockwell:** In that case, is it worth the candle? If this causes more people to become unlicensed and to be driven underground, is HMRC cutting off its nose to spite its face?

***John Miley:*** That remains to be seen in the results—how much income is increased by. I forget what the figures are now, but it has planned for a number of increases over the next five or six years and seems to think it worth while. My honest opinion is that I would rather do without it.

***James Button:*** It is important to recognise that there is already an issue with unlicensed taxi drivers in certain communities. There are adverts on Facebook and social media, "Come back from town for £1, no questions asked", and that sort of thing. That is already an issue that local authorities are trying to address, although it is extremely difficult with the resources that are available at their disposal. Whether this will lead to more people doing that, I am not sure. I do not feel, to be quite honest, that people think, "If I'm not licensed, I won't get caught".

I suspect the bigger problem is the point that Lord Forsyth made: that somebody earns £10,000 but only declares £1,000 for tax. This will not address that, but it might make people who are on the margins of dishonesty think twice. They might think, "Hold on a minute. The tax people know I'm here. They obviously realise I make a living. I have to think a bit more carefully about whether I really want to risk not paying tax on all of my income".

It depends on your perspective as to whether you think that is likely. There will always be dishonest people, sadly, but, as long as the vast majority are law-abiding, the vast majority will see this as a way to ensure that those of us who pay the correct amount of tax are not being chiselled, and society is not being chiselled, by those who do not.

**Lord Butler of Brockwell:** What risk do people who are unlicensed run? There is the risk of prosecution, presumably, because you are required to be licensed. Does that happen a great deal, and are there heavy penalties for being unlicensed?

***James Button:*** It happens. There are paltry penalties for being unlicensed, but it is a criminal matter. It is usually prosecuted by local authorities, although it can be investigated by the police and then prosecuted by the CPS. It is primarily local authorities and Transport for London that bring those prosecutions.

**The Chair:** Do you have figures for the number of those prosecutions?

***James Button:*** I do not. I have never seen any collated figures.

***John Miley:*** No, I have not. I would add that the greater risk, in fact, is to the passengers of those unlicensed vehicles in terms of the fit and proper status of the drivers. If they are unlicensed, they are liable to be unlicensed for a reason, maybe because they have previously been refused a licence by the licensing authority. I would be concerned at driving people underground in those terms—unlicensed drivers being a risk to other passengers and vulnerable people.

**Viscount Chandos:** Would their insurance be likely to cover passengers if they were not licensed?

***John Miley:*** No, absolutely not.

**Viscount Chandos:** The greatest danger of driving drivers underground is that you are exposing passengers to the risk of there being no insurance cover.

***John Miley:*** Also, as I said previously, it is about the fitness and propriety of the driver themselves, who may have a criminal record and not be able to be licensed by the licensing authority.

***James Button:*** To an extent, it is also dependent on the passengers to ensure that the vehicle they are getting into is licensed. Every licensed vehicle, at the very minimum, carries a plate on the rear and the drivers must wear a badge. I have said for years, and I know John has as well, that we need to get the public educated to think carefully about the vehicle they are getting into. If they are unsure, they should not get into it.

**Lord Forsyth of Drumlean:** If the problem is unlicensed vehicles, and we all know that local authorities are not exactly awash with cash, would it not be better to spend the resources that you will have to spend on implementing this piece of legislation on finding the people who are driving illegally and getting them licensed?

***John Miley:*** We currently undertake that process anyway. The costs would not come from the public purse; they would come from the drivers themselves. Any costs incurred in putting this into place would be required to be recovered by the taxi fees that are charged.

**Lord Forsyth of Drumlean:** Why could you not use the revenue from the licensing fees to drive out people who are unlicensed?

***John Miley:*** That is precisely what we do anyway as part of our day job.

**Lord Forsyth of Drumlean:** You have plenty of money to do that, have you?

***John Miley:*** No, we have not, unfortunately. We have to use the fees that we have to do that.

**Lord Forsyth of Drumlean:** That is my point.

***John Miley:*** We would not be able to use the fees in any other way to do that.

Q25 **Viscount Chandos:** Mr Miley, you mentioned the issue of communicating with all parties affected by this and stressed the importance of a consistent message. I wondered whether you could expand on the plans that you have to communicate with licence-holders about this new aspect of renewal applications.

***John Miley:*** Currently we have no plans. We are awaiting some consultation with the HMRC implementation team to discuss exactly what sort of communication we should be sending out. Hopefully, they will provide that information for us, as I said, to ensure consistency. When that happens, certainly the IoL and NALEO will advise their members that they need to communicate with all the drivers and operators and scrap metal dealers and collectors to inform them of the changes. We are looking at 2022 for the implementation, so we have some time to do that.

**Viscount Chandos:** How many of your members are aware of the prospect of this change? If there are representations that they would like to be made at this stage, or suggestions as to how it might be made less irksome or more efficient, is that not something you have thought of doing?

***John Miley:*** We have had extensive consultation with HMRC. A consultation document has been issued to all our members, in the IoL and NALEO, so all licensing authorities are aware of the impending changes. They may not be aware of the finer detail, but they are aware of the impending changes and will address them as they arise. Licensing is quite a varied occupation. We have a number of licences that we have to deal with. As the need arises, we will deal with the matter.

***James Button:*** In one way it will be relatively straightforward to inform licensees once that information has been agreed, as John says, and once we have a form of words that is accepted across the country, because every licensing authority writes to the licensees to remind them that their licence needs to be renewed. It can be incorporated into that process, so it will be there before every renewal application. It can also be incorporated into the packs for new applicants. Once it is established what is being said, the mechanism of communication is already in place.

**The Chair:** Can you clarify what happens? You communicate with me that my licence needs renewal. If you know the answer to this question, can you tell us what the step-by-step process will be from that point on? I then apply for my renewal. Do I have to allow more time to renew my licence? How will it actually work for me as, say, a taxi driver?

***John Miley:*** Do you mean in terms of adding the conditionality check in?

**The Chair:** Yes.

***John Miley:*** They will have to apply for that beforehand to ensure that they have it as part of their application process. If they do not have it, we will not process the application, which may lead us to appeal to the courts for non-renewals as well.

**The Chair:** What precisely do I have to give to the licensing authority?

***John Miley:*** An applicant will need to provide an enhanced disclosure and barring check, outlining the fact that they have no criminal record. They will have to provide a check from the DVLA to show the status of their driving licence and whether it has points on it. They will have to fill the application form in, which has a number of declarations. Potentially, they will also have a medical to provide. That happens every five years, because we use the HGV standard for that. When all those bits of information are in place, we can process the application and grant.

***James Button:*** They also have to demonstrate that they have the right to remain and work in the UK, which was introduced three or four years ago.

**Lord Forsyth of Drumlean:** I am sorry to put you on the spot, but if you think this is a bad idea, which is what you said earlier, why on earth are you agreeing to it?

Mr Button, you seem to be setting great store by the website and the technology, but the website is just a tool for the operations. You are saying, "Hopefully, we'll learn how it will work". Would it not be a good idea to do that before we put the legislation in place? It seems to me, for example, that it is utterly naive to believe that this will just stop at, "Please show you have a tax code".

To answer my own question, what about the person who earns £10,000 and only declares £1,000? How long will it be before the Revenue wants you to do mileage checks, for them to keep records of mileage checks, and for you to administer all that as part of making sure that they are compliant? Are you not being boiled like frogs here?

***John Miley:*** I have a concern that we are being used as an HMRC resource. I would not want it to go any further at all, certainly in the way that you have outlined. If people are registered with HMRC as taxi drivers, I would surmise that they should be expected to provide their own mileage checks for tax purposes anyway.

As regards supporting the process, we have been asked to do a tax check to say that people are compliant. I do not perceive there to be any real barrier to that, apart from what we have outlined. We have been asked to do so and it will become part of the licensing regime, I suspect.

***James Button:*** John has explained that there have been trials, which seem to have worked reasonably well, so let us hope that the technology works when it is scaled up.

**Lord Forsyth of Drumlean:** When you say they have worked reasonably well, how much additional revenue has the taxman got out of it? That is what it is supposed to be doing.

***James Button:*** I meant trials in terms of the system rather than how much has been generated, because it has not come into force yet.

Q26 **Baroness Kramer:** I have, over the years, been involved in various different ways with licensing, particularly taxis, Uber and others, both at the London level and at national level. I had always understood that the purpose of licensing was overwhelmingly passenger safety by ensuring the standards of the vehicle and the standards of the driver.

I would like to know from you whether there is any risk of dilution of that by bringing other roles into the licensing process. I would suggest that on a priority listing, safety is so overwhelming that anything that could compromise the resource going into safety could be extremely troubling.

***James Button:*** I do not see that this will dilute the overriding aim that public safety is paramount. Drivers have to be assessed for fitness and propriety. Operators have to be assessed for fitness and propriety. This will be part of that process. There is a small argument that, if people are dishonest in relation to their tax, you can legitimately ask how dishonest they are in relation to other areas of their life. There will be no dilution of public safety.

It seems absurd to take this process forward for drivers and for private hire operators and to avoid the vehicle licensees—the hackney carriage and private hire vehicle proprietor licensees. It would seem sensible that those are brought into the fold, because ultimately it is about public safety, and those licensees are just as important in the public safety mix as the drivers and the operators.

***John Miley:*** I agree very much with Jim. There would be no dilution of the fitness and propriety test at all. It is paramount in licensing authorities' views that drivers and operators must be fit and proper, and we also have new taxi standards afoot now to help to reinforce that process.

**Baroness Kramer:** I am awfully glad you will be able to do all this with no additional resource. Can I ask a question about the hidden economy? In the sectors that you know about and the sectors that we are discussing today, you must be aware of the existence of a black economy. My concern is whether it is better to have people in the grey where they are at least going through the licensing process, even if they are playing rather fast and loose with their tax, than have them drift into the black economy, where they have exempted themselves from the licensing process as well.

I wonder whether any of this really tackles the black economy, or whether, rather than tackling it, it simply increases the size of it by encouraging that shift, not from grey to white but from grey to black.

***John Miley:*** The role of the licensing authority is to license. It is not our role to get involved in the finances of each person's business. Any view I had on that would have to be a personal view about the black or hidden economy. There is potential in all the licensed trades to do that. I would most certainly agree that we need to keep them within our view, rather than drive them underground.

***James Button:*** I agree. As I said earlier, how much this will lead to people considering going into the completely unregulated sphere is just speculation. Frankly, I have no real feel as to what size of problem that may be.

Q27 **Lord Forsyth of Drumlean:** So far, we have talked about taxi drivers and not scrap metal dealers. In earlier exchanges you indicated that you thought that the scrap metal licensing regulations were not working very effectively. Is that correct?

***John Miley:*** It is a relatively new licensing system and we are still working through the vagaries of it.

**Lord Forsyth of Drumlean:** You said that there was lots of lead disappearing still from church roofs. If you cannot control the lead being stolen from church roofs through enforcing the existing licence regulation, what prospect is there for this further additional regulation?

***James Button:*** There is clearly a lot of unregulated scrap metal or waste metal trading taking place. I do not know whether NALEO has any further view on this, but certainly the institute does not know how much of that is taking place through licensed traders who are breaking the law, as opposed to unlicensed traders who are also breaking the law but are not even on the radar. As John said, scrap metal licensing is still reasonably new. We are nearly into the seventh year of it. It has had an impact, but it does not appear to have had the impact that it was intended to: eradicating scrap metal theft or metal theft for scrap.

**The Chair:** Do you have any figures on the impact of that, or any data? It has been going for seven years.

***James Button:*** There is data on scrap metal theft via the national crime survey and so on. I do not have those figures to hand, but there is certainly data available via various police forces with regard to scrap metal.

**Baroness Kramer:** One of the ways to get information, at least on this, that could at least give us the pattern is by talking to the railways. I do not know if the RDG would have that number, but one of the primary sources of stolen metal is copper stripped out of the rail network, which matters a great deal because it impacts on rail safety. The industry keeps a pretty close eye on that number, so we ought to be able to get a track on whether it has gone down sharply, stayed the same or increased.

**The Chair:** That is a very good point. Coming come back to Lord Forsyth's point, do you see the main point of requiring this compliance mechanism for scrap metal dealers as being this point about illegal transactions based on the theft of metal? Is that the main reason driving this? If so, why are we not just enforcing the law?

***John Miley:*** No, it is not. The reason for imposing this tax check is for HMRC to collect more money, full stop. It could have an impact on driving some underground. It will certainly ensure that those who are licensed are within the view of the HMRC team, but, as has been said time and time again, we have no idea whether they will actually pay what they are due to pay.

**Baroness Bowles of Berkhamsted:** Just going back to those who are taxi drivers as a second job, if they have a first job in which they are perhaps not self-employed, so they are on some PAYE system, I presume that will not give them the tick to say they have declared self-employed income. How will that work, or are they the ones who will somehow stay under the radar?

***John Miley:*** All applicants for renewal of a licence will be required to provide proof of registering with the tax authorities.

Q28 **Lord Monks:** The Government's stated intention is to extend the public sector licensing to other areas beyond the two or three that we have just been talking about. I am interested in what both of you think about that. What are the likely candidates for this extension? Who will be in next in line after the taxi world and the scrap metal world?

***James Button:*** I would have thought any other activity or business that is either licensed or regulated by local authorities. Alphabetically that ranges from acupuncturists to zoos. A great many of those are, again, largely cash economies. With street traders, for example, until the pandemic it would have been reasonable to think that the majority of the transactions were in cash. Again, this has changed, and it remains to be seen whether cash really makes a resurgence once the pandemic has been addressed or whether the cashless economy is more the way of the future.

There are all those potential areas and, by extension, the other regulated activities, such as those of solicitors, like me. I have to have a practising certificate. I am registered with the Solicitors Regulation Authority. It would not surprise me if at some stage in the future I had to tick a box and produce a note that I am registered with the taxman.

**Lord Monks:** Why would that be the case? Take your own case as a solicitor. Is anybody thinking that solicitors are a bit dodgy as far as tax is concerned? The thing that taxis and scrap metal people have in common is that people think that they are getting away with murder as far as tax is concerned. I guess that was the reason why they were picked. I do not know about acupuncturists or zookeepers, but there are some others, like street traders, who you might think too are pretty high up on the list of HMRC targets.

***James Button:*** There will always be the bad apples who let the side down in any occupation. There are criminally minded solicitors, as opposed to criminal solicitors. There are criminally minded accountants. Every profession and occupation has them. The question that we have both said neither of us can answer is what percentage there is of that activity in any given occupation and how much of that would be addressed by these measures.

***John Miley:*** The cash economy is a vast market. Market traders, for instance, could also be targeted. I do not know which direction HMRC would like to go in there. I do not know which is the biggest problem. I suspect they will take the largest downwards. That is what one would hope. I have no insight into their way forward.

**Baroness Bowles of Berkhamsted:** How does this affect somebody who is starting up? I do not know how the system works now, but when I started my own business you had three years before you had to do your tax return, and certainly, even if that has been shortened, there will be a time-lag from when you start up to when you have to do a tax return. How do you get your tick?

***John Miley:*** The Act is actually quite clear in that applicants are required to be signposted to information requiring them to register only before they renew, so depending on the time period that they apply for, badges could be for one, two or three years and operators up to five years. When they make their initial application, they will be signposted and will have to advise that they have seen that information before we issue their first badge or licence. When they renew, we require that green tick from them that says they are registered.

**Lord Forsyth of Drumlean:** Are they individuals or corporates?

***John Miley:*** Either/or.

**Lord Forsyth of Drumlean:** What is to stop somebody as an individual doing their three years and then applying again as a corporate with a new start?

***John Miley:*** That would depend entirely upon the checks made by the licensing authority. Generally speaking, if they renewed, we would have some inkling of the process.

**Lord Forsyth of Drumlean:** Why could they not make a separate application as a company?

***James Button:*** You cannot have a company licensed as a taxi driver. This would apply only to operators and potentially to proprietors.

***John Miley:*** We would also check the criminal records of the company directors as part of the operators check.

Q29 **The Chair:** May I just come back on costs and the impact? The Government estimate that the ongoing admin burden for this will be in the region of £700,000 a year. Mr Miley, how much do you think it will be costing the licensing authorities for taxi drivers and private vehicle hire in where you sit out of that? That includes the application of these measures to the scrap metal merchants, but how much do you think this will really cost?

***John Miley:*** More than that, I suspect.

**The Chair:** How much more?

***John Miley:*** It would be difficult to quantify, because I do not know exactly how much time and effort will be involved in driving forward the actual process, the application and the time spent communicating with drivers, explaining stuff. As I said, we have over 360,000 drivers and 14,000 operators, and £700,000 does not seem a particularly adequate sum to reflect the potential problems that we may have and the costs that we may incur.

***James Button:*** The first year or two years would be more expensive, because as these systems bed in it becomes easier to operate, so there will be a greater up-front cost than an annual cost thereafter, I suspect.

**The Chair:** I looked earlier at the proposed actual legislation and what information could be required by HMRC. First, how much concern do you have that, as Lord Forsyth was implying, they will start to use this process—and you, unwittingly—as tax inspectors in this process?

Secondly, just to clarify a point—forgive me; I may not have understood this—if I am applying for a renewal, I submit all the necessary information and HMRC disputes what I am saying, who do I go to? Do I go to you, the licenser, or to HMRC? Do I go to both? How does that process work?

***James Button:*** On the first question, it would be very difficult for HMRC to obtain much more information. The requirements for vehicle mileage at the moment would be difficult, because a driver may drive more than one vehicle. Over the year, they may drive three or four vehicles for different people, quite legitimately, and vehicle licensing is, as I said a minute or two ago, exempt from these proposals, although it should be included. At the moment, it would be difficult to extend this very readily, or certainly effectively.

On the second point, my understanding is that there is a mechanism whereby the process can continue if HMRC fails to provide the information that is required. That is contained in paragraph 7 of Schedule 1 to the draft Bill. The point that John Miley made earlier was that these are effectively conditions precedent to the application being processed. If the applicant does not obtain this information, that is not a valid application. That would then not be processed and accepted by the authority. I would argue that, as it is not a valid application, there is no refusal and therefore no right of appeal, but that is a point that licensing lawyers argue over, to some degree.

The mechanism seems to be reasonably good, but, again, until this is actually up and running, we will not necessarily know whether there are problems that we have not foreseen.

***John Miley:*** There are certain conditions laid out in the legislation whereby, if the information is not readily available from the tax authorities, we will be able to provide the licence. However, if there is a dispute and they are not able to agree the licence, we will have to refuse it, or refuse the application. As Jim has said, there will be some arguments as to whether that is a refusal of a renewal or whether it is a refusal of an application. There are lots of legal niceties involved in that, which go well beyond my scope.

**Lord Forsyth of Drumlean:** Just to follow up on the Chair’s question, if

I am a taxi driver and I am paying my taxes, but I am in dispute with HMRC over some tax issue, would that be grounds for saying to you that I was not tax-compliant, and therefore I could not have my licence and could not continue with my livelihood?

***James Button:*** No, not as I understand it, because the requirement is to check that you are registered for tax. It is not to check that HMRC is happy with the tax you are paying or that you are happy with its assessment of the tax you should be paying. It is simply to ensure that you are within the purview of HMRC.

**Lord Forsyth of Drumlean:** That is my understanding of it. Having spent the last 50 minutes listening to your very helpful answers, I still do not understand why the Revenue thinks this will help it to get tax that is not being paid. I can see how it will add a burden to the local authorities and how it will end up putting up the licence fee, but I cannot see any other benefit, if it is to be used as you have indicated.

***James Button:*** The only people who could answer that are HMRC. I am not in a position to do that.

**Lord Forsyth of Drumlean:** You agree with me that it is difficult to see the reason for it.

***James Button:*** It is difficult to know, as I have said before, the potential outcome in increased tax yield in order to address the black economy. It has the potential to do that, so on balance it is a sensible proposal. That is my view and the view of the institute.

**Lord Forsyth of Drumlean:** Is the institute just concerned about the reputational damage of not agreeing with the Revenue on a matter that seems to be a good thing: in other words, making sure that people pay their taxes due?

***James Button:*** Absolutely not.

***John Miley:*** It will not actually ensure that people pay their taxes. It will just ensure, as we have said previously, that they are registered with HMRC. They reckon there to be a tax gap of £35 billion that they are trying to address. This is one of the methods they are using. Whether I agree with it is a personal opinion. In terms of the licensing authority view, it is a relatively straightforward process that will add burdens to us but will tick the box for HMRC to say, "We now understand that this person is earning a living as a taxi driver".

**Lord Rowe-Beddoe:** What was the figure you just used?

***John Miley:*** £35 billion is the estimated tax gap, apparently.

***James Button:*** That is not just from taxi drivers.

Q30 **Viscount Chandos:** Has either of you, in your engagement with HMRC, asked them for an assessment of how much of the gap in the shortfall in revenue comes from non-registration and how much from underreporting? You have said that in an ideal world you would not do this, but there does not seem to have been a process of your members asking you to make representations as to whether they think it is a sledgehammer to crack a nut. Having said that you are not frightened of challenging HMRC, is that not the natural question to ask?

***John Miley:*** In the actual process, we are happy to support them on drivers being registered. We would not want to go any further than that by helping them in their role. That would be beyond the remit of the licensing authority. This is hopefully not a first step in us being recruited to the HMRC team; we would expect this to be the end of the matter.

**Lord Butler of Brockwell:** If somebody is a part-time taxi driver and has another job through which they are registered with HMRC, does that satisfy the new requirement for a licence? If so, it seems that HMRC may never know that they have a supplementary job as a taxi driver.

***John Miley:*** I suspect not. I suspect they will need to enrol as a self-employed person as well as having their other income, which may well be PAYE-registered anyway.

**The Chair:** Thank you both, Mr Miley and Mr Button, very much. That was an extremely useful session and we are very grateful to you for sparing the time to come to talk this afternoon.