

Legal Framework Car Schemes & the Law

Contents

Introduction	Exemption from Private Hire Car legislation
General motoring law	Repeal of Miscellaneous Provisions Act
The legal position	Northern Ireland
Definition of a Public Service Vehicle (PSV)	Exemption from Public Vehicle legislation
Exemption for PSV Legislation	Your drivers and the law
Exemption from Hackney Carriage legislation	

Introduction

Participating in a community car scheme, or any other form of car-sharing, is subject to the normal rules and regulations which govern private motoring as well as being an exempted form of public transport operation.

[Return to top](#)

General motoring law

Drivers need to comply with all the legal requirements of everyday motoring. The main points are set out here:

- The vehicle must be properly licensed (must display a valid tax disc). [Vehicle Excise and Registration Act 1994 s.29]
- The use of the vehicle must be properly insured. [Road Traffic Act 1988 s.143]
- The driver must hold a valid driving licence. [Road Traffic Act 1988 s.87 & Motor Vehicles (Driving Licences) Regulations 1996]
- The vehicle must have a test certificate if it is over the age limit (a valid MOT) [Road Traffic Act 1988 s.45, 47, 49 & 53]
- The driver's eyesight must be up to the standard (able to read a number plate at 25 Yards). [Road Traffic Act 1988 s.96 & Motor Vehicles (Driving Licences) Regulations 1996]
- The vehicle should be kept in roadworthy condition and should comply with the relevant "Construction and Use" regulations in respect of lights, brakes, steering, exhaust, wipers, washers etc. [Road Vehicles (Construction and Use) Regulations 1986 s.100]

- Seat belts must be used, subject only to specific medical exemptions. The driver MUST ensure that all children under 14 years of age in cars, wear seat belts or sit in an approved child restraint where required. If a child is under 1.35 metres (approx 4 feet 5 inches) tall, a baby seat, child seat, booster seat or booster cushion MUST be used suitable for the child's weight and fitted to the manufacturer's instructions. [Road Traffic Act 1988 s.14 & s.15, as amended by Motor Vehicles (Wearing of Seat Belts) (Amendment) Regulations 2006 & The Motor Vehicles (Wearing of Seat Belts by Children in Front Seats) (Amendment) Regulations 2006]
- The vehicle should be driven safely and with consideration for all other road users. [I.e. in accordance with the Highway Code]
- A failure on the part of a person to observe any provision of the Highway Code shall not of itself render that person liable to criminal proceedings of any kind, but any such failure may in any proceedings ... be relied upon by any party to the proceedings as tending to establish or negative any liability which is in question in those proceedings. Road Traffic Act 1988]

[Return to top](#)

The legal position

Under normal circumstances the carriage of passengers for fares is classed as "hire or reward" and is subject to either Public Service Vehicle (PSV) Hackney Carriage or Private Hire Car licensing laws. Car schemes and car-sharing are specifically exempted from such requirements by law.

[Return to top](#)

Definition of a Public Service Vehicle (PSV)

The Public Passenger Vehicle Act 1981 defines a Public Service Vehicle as:

The Law says:

1. (1) *Subject to the provisions of this section, in this Act "public service vehicle" means a motor vehicle (other than a tramcar) which*
- (a) *being a vehicle adapted to carry more than eight passengers, is used for carrying passengers for hire or reward; or*
 - (b) *being a vehicle not so adapted, is used for carrying passengers for hire or reward at separate fares in the course of a business of carrying passengers.*

Source: Extracts from The Public Passenger Vehicles Act 1981 Section 1

Exemption for PSV Legislation

However, Section 1(4) of that Act states:

The Law says:

- (4) *For the purposes of this section a journey made by a vehicle in the course of which one or more passengers are carried at separate fares shall not be*

- treated as made in the course of a business of carrying passengers if—*
- (a) the fare or aggregate of the fares paid in respect of the journey does not exceed the amount of the running costs of the vehicle for the journey; and*
 - (b) the arrangements for the payment of fares by the passenger or passengers so carried were made before the journey began;*
- and for the purposes of paragraph (a) above the running costs of a vehicle for a journey shall be taken to include an appropriate amount in respect of depreciation and general wear.*

Source: Extracts from The Public Passenger Vehicles Act 1981 Section 1

[Return to top](#)

Exemption from Hackney Carriage legislation

Section 38 of the Town Clauses Act 1847 defines a hackney carriage as a vehicle used to “stand or ply for hire”. Provided that the arrangements for the journey were made in advance (in accordance with Section 1(4)(b) of the Public Passenger Vehicles Act 1981) then this legislation does not apply to car-sharing.

[Return to top](#)

Exemption from Private Hire Car legislation

Section 79 of the Public Passenger Vehicles Act 1981 was intended to remove car-sharing from private hire car licensing, but due to an error omitted the necessary reference to Section 1(4).

However, as modified by Section 21(10) of Schedule 7 of the Transport Act 1985, which was brought into force by the Transport Act 1985 (Commencement No 6) Order 1986, this Section now reads

The Law says:

“At any time when a vehicle would apart from section 1(3) or 1(4) of this Act be a public service vehicle, it shall continue to be treated as such for the purpose only of provisions contained in a local Act, in section 270 or 271 of and Schedule 5 to the Burgh Police (Scotland) Act 1982 or in Part ii of the Local Government (Miscellaneous Provisions) Act 1976, which regulate the use of private hire vehicles provided for hire with the service of a driver for the purpose of carrying passengers and exclude public service vehicles from the scope of that regulation.”

Source: Extracts from amendments to The Public Passenger Vehicles Act 1985

[Return to top](#)

Repeal of Miscellaneous Provisions Act

The Road Safety Act 2006 contained the following three taxi/PHV measures.

- Allowing licensing authorities to suspend or revoke a taxi driver’s licence with immediate effect.
- Repealing the contract exemption.
- Redefining “private hire vehicles” in the London legislation.

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