

CIVIC GOVERNMENT (SCOTLAND) ACT 1982

Licensing of Booking Offices

Notes of Guidance for Applicants for a Licence for a Taxi/PHC Booking Office

The following notes are a brief outline of the requirements for a **Booking Office** Licensing under the above Legislation. They should be treated as guidelines only and not an authoritative statement of law. They do not purport to be more than a guide to the main provisions of the Act in order that applicants may consider if they need to apply for a Licence. Applicants are recommended to study the relevant provisions of the Act and obtain any further advice from their Solicitor.

1 INTRODUCTION

From 16th November 2009 all premises used as taxi and private hire car booking offices where the number of relevant vehicles, in respect of which bookings are taken, exceeds 3 require to be licensed.

2 DEFINITIONS

The definition of booking office is the use of premises for the carrying on of a business which consists to any extent of the taking of bookings, by any means of communication, from members of the public for the hire of a relevant vehicle.

3. CONDITIONS

Licence holders will be required to comply with the mandatory conditions specified in the legislation. These are detailed below:

- The licence holder must keep a record of every booking for the hire of a licensed vehicle taken at the premises licensed.
- The licence holder must keep a record of the registration number of the vehicle which was hired as the result of a booking taken at the licensed premises together with the name of its driver at the time of the hire.
- The Licence holder shall take all reasonable steps to ensure that any booking taken at the licensed premises from a member of the public for the hire of a relevant vehicle results in the hire of a vehicle which is:
 - (i) a relevant vehicle; and
 - (ii) being driven by a person who holds a licence granted

under section 13 of the Act and that licence is in effect.

A full set of the conditions of licence are attached to these guidance notes.

4. COMPLETION OF APPLICATION FORM

Application forms are available from Council Offices, Service Points or from the Council's Website at www.highland.gov.uk

The licence may be applied for in the name of a firm or company (i.e. non-natural person) or in the name of an individual. Please therefore answer Question 1 or 2 on the form as appropriate. **ALL** other questions on the form should be answered.

You should take care in completing the application form to list, subject to the terms of the Rehabilitation of Offenders Act 1974, all convictions against you/persons named in your application. If you are in doubt as to whether or not to list a conviction you should seek independent advice on this matter.

In order to apply for a licence, the application form should be returned along with the following:-

- the application fee and the current fee for this can be found on the Council's website, see link below

http://www.highland.gov.uk/info/1125/licences_permits_and_permissions/306/licence_application_fees.

- A copy of your public liability insurance certificate (if applicable)

5. APPLICATION FEES

Licences will normally be granted for a period of three years. The current fee for this can be found on the Council's website, see link below

http://www.highland.gov.uk/info/1125/licences_permits_and_permissions/306/licence_application_fees

Please note that the fee which is paid on submission of your application will not be refunded if your application is refused or withdrawn.

6. DISPLAY OF PUBLIC NOTICE

Upon submitting your application to the Council you are required to display a PUBLIC NOTICE on the premises for a continuous period of TWENTY ONE DAYS from the date of submission of your application. A Public Notice is attached to these notes.

Where the application has been made by or on behalf of a company or partnership (ie. a non-natural person) the address of the registered or principal office and the names of and the private addresses of the directors, partners or others responsible for its management should also be stated on the Public Notice. You should attempt to keep the Notice on display for a period of at least 21 DAYS and try and ensure that it does not become defaced or destroyed during that period, replacing the Notice if necessary.

When the required Notice has been displayed in accordance with the legislation, you should, on expiry of the 21 DAYS, complete and sign the Certificate of Compliance and send it to the office you submitted the application form to. (Copy Certificate is enclosed).

7. IMMIGRATION ACT

Under the provisions of the Immigration Act 2016 from 22 January 2018, the Council will be unable, from that date, to grant a booking office licence unless a face-to-face check has first been made to verify that, as at 22 January 2018, the applicant(s) are not disqualified by reason of his or her immigration status from holding a booking office licence.

This means that all applicants for a booking office licence, including UK passport holders, will require to attend their nearest licensing office in person with original documents (passport or other acceptable documents) demonstrating that they have the right to work in the UK.

Licensing staff will require to check the validity of the original documents in the presence of the applicant before the licence can be issued. The Council is required by law to retain copies of these documents.

Please note that where the application is made by a company, partnership or other type of firm, then all persons detailed on the application form as directors, partners or other person responsible for the management of the firm will require to undergo this check. Employees employed by the firm to manage the booking office, and who are not also responsible for the management of the company, partnership or firm itself, will not require to undergo this check. It is the responsibility of the company, partnership or firm itself to ensure that such employees have the required immigration status.

This checking process is required for all new applications and renewal applications submitted on or after 22 January 2018. A further document check will only be required at subsequent renewal where the applicant's immigration permission to work in the UK is time-limited.

A list of documents which can be accepted for these "right to a licence" checks is attached below.

If there are restrictions on the length of time any persons detailed on the application form may work in the UK, the licence will not be issued for any longer than this period. In such circumstances the check will be repeated each time you apply to renew or extend the licence. If, during this period, any person is disqualified from holding a licence because they have not complied with the UK's immigration laws, the licence will cease to have effect and it must be returned to the licensing authority. Failure to do so is a criminal offence.

Please note that this checking process under the Immigration Act 2016 is in addition to the criminal history check which the Council carries out with Police Scotland for each applicant to determine the applicant's fitness to hold a licence.

Lists of acceptable documents for right to a licence checks

The lists of documents are based on those prescribed to show evidence of a right to work.

List A: No restrictions on right to work in the UK. Once you have undertaken the necessary check once, if you retained the copy, you will not have to repeat the check when they subsequently apply to renew or extend their licence.	
1.	A passport showing the holder, or a person named in the passport as the child of the holder, is a British citizen or a citizen of the UK and Colonies having the right of abode in the UK.
2.	A passport or national identity card showing the holder, or a person named in the passport as the child of the holder, is a national of a European Economic Area country or Switzerland.
3.	A Registration Certificate or Document Certifying Permanent Residence issued by the Home Office to a national of a European Economic Area country or Switzerland.
4.	A Permanent Residence Card issued by the Home Office to the family member of a national a European Economic Area country or Switzerland.
5.	A current Biometric Immigration Document (Biometric Residence Permit) issued by the Home Office to the holder indicating that the person named is allowed to stay indefinitely in the UK, or has no time limit on their stay in the UK.
6.	A current passport endorsed to show that the holder is exempt from immigration control, is allowed to stay indefinitely in the UK, has the right of abode in the UK, or has no time limit on their stay in the UK.
7.	A current Immigration Status Document issued by the Home Office to the holder with an endorsement indicating that the named person is allowed to stay indefinitely in the UK or has no time limit on their stay in the UK, together with an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer. An example of an Immigration Status Document may be found here .
8.	A full birth or adoption certificate issued in the UK which includes the name(s) of at least one of the holder's parents or adoptive parents (including an official extract of an entry in the register of births in Scotland in long form), together with an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
9.	A birth or adoption certificate issued in the Channel Islands, the Isle of Man or Ireland, together with an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
10	A certificate of registration or naturalisation as a British citizen, together with an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.

List B: Restrictions on right to work in the UK. You may issue the licence (subject to statutory limitations) up to the expiry date of the permission to work in the UK. You will need to check immigration status each time they apply to renew or extend their licence.	
1.	A current passport endorsed to show that the holder is allowed to stay in the UK and is currently allowed to do the type of work in question.
2.	A current Biometric Immigration Document (Biometric Residence Permit) issued by the Home Office to the holder which indicates that the named person can currently stay in the UK and is allowed to do the work in question.
3.	A current Residence Card (including an Accession Residence Card or a Derivative Residence Card) issued by the Home Office to a non-European Economic Area national who is a family member of a national of a European Economic Area country or Switzerland or who has a derivative right of residence. This guidance [link to page 16] provides further information on checking a non-European Economic Area national family member's right to a licence.
4.	A current Immigration Status Document containing a photograph issued by the Home Office to the holder with a valid endorsement indicating that the named person may stay in the UK, and is allowed to do the type of work in question, together with an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
1.	A Certificate of Application issued by the Home Office under regulation 17(3) or 18A (2) of the Immigration (European Economic Area) Regulations 2006, to a family member of a national of a European Economic Area country or Switzerland stating that the holder is permitted to take employment which is less than 6 months old together with Verification from the Home Office Evidence and Enquiry Unit. The licence may be granted for six months from the date of the Certificate of Application.
2.	A Verification issued by the Home Office Evidence and Enquiry Unit to you, which indicates that the named person may stay in the UK and work because they have an in time application, appeal or administrative review and which is outstanding. The licence may be issued for six months from the date of the licence decision.

8. CONSULTATION PROCESS

When your application is lodged and the appropriate fee has been paid, your application will be referred to the Police, Fire Service, Council's Trading Standards Service, Environmental Health Service and the Planning and Building Standards Service for comment.

9. DETERMINATION OF AND DURATION OF LICENCES

- (i) **Full licences:** a licence will normally be issued after the elapse of 28 days from receipt of an application. In certain circumstances, e.g. where objections have been received, applications can take considerably longer to be determined. A Licence shall remain in force, unless previously suspended or revoked, for a period of three years from the date when it comes into force, or such shorter period as the licensing authority thinks fit. The Licence is not normally transferable.

- (ii) **Temporary Licences:** application may be made for a temporary licence which on being granted by the licensing authority may have effect for a period not exceeding 6 weeks. A temporary licence is not capable of being renewed, but where application has also been made for a full licence for the same activity, the temporary licence, if granted, shall continue to have effect until the application for the full licence has been determined. Temporary licences may be granted earlier than the 28 day period specified for a full licence and the fee for a temporary licence is half of the full application fee.
- (iii) **Determination Period:** The Council have 9 months in which to determine an application for a licence under the Civic Government (Scotland) Act 1982. If an application cannot be determined by officers using delegated powers and the 9 month deadline is approaching then the application may require to be submitted to the Council's Highland Licensing Committee for their consideration. The Committee have the power to grant or refuse applications for a licence.

10. LICENCE TO BE RETAINED

The Licence must not be altered, erased or defaced in any way, must be kept clean and legible and must not be lent to or used by any other person. Should the Licence be lost or become defaced or illegible the Licence holder shall obtain a replacement from the licensing authority on payment of the appropriate fee as detailed in the attached list of fees. The Licence holder shall produce his/her Licence within five days of being requested to do so by a Police Constable or an authorised Officer of the licensing authority or the fire authority.

11. RETURN OF LICENCE

The Licence shall be delivered to the licensing authority:-

- (a) if the premises cease to be used as a booking office;
- (b) within seven days of receiving notice of the coming into effect of a decision of the licensing authority to suspend or vary the terms of the Licence, or the decision of a Court to revoke it.

12 NOTIFICATION OF MATERIAL CHANGE OF CIRCUMSTANCES

The Licence holder shall notify the Council as soon as is reasonably practicable with any **convictions or other material change** in circumstances affecting him/her or the activity to which the Licence relates, including any particulars referred to in the application for grant, or latest application for renewal, of the Licence. **If in doubt, notify the Council of any changes.**

13 NOTIFICATION OF MATERIAL ALTERATIONS

The Licence holder shall not make or permit to be made any material change to the premises without the prior **written** consent of the licensing authority unless in accordance with a requirement imposed by or in pursuance of any enactment other than parts I or II of the Civic Government (Scotland) Act 1982. **If in doubt as to whether consent is required, contact the Council.**

14 PRIOR REFUSAL

Please note that if you have applied for and been refused an application for a Licence in one Area of The Highland Council then, unless your circumstances have altered, you will be unlikely to be granted an application made in another Highland Council Area.

If refused, you cannot apply for the same kind of licence in respect of the same activity or for the same premises, within one year of that refusal unless there has been a material change in circumstances.

15 HEARINGS

Occasionally, and always if there is an objection to the granting of a Licence, a Hearing of the Area Committee of the Council will be held to decide whether or not a Licence should be granted. If the application is to be referred to a Hearing you will be invited to attend and notified in writing of the date, time and venue. A further appeal lies to the Sheriff Court.

16 OFFENCES

The following are criminal offences liable, on summary conviction, to a fine:-

- (a) Carrying on an activity for which a Licence under the Civic Government (Scotland) Act 1982 is required without such a Licence;
- (b) Failing to comply with a Condition of a Licence;
- (c) Failing to notify the Council of a material change in the circumstances of a Licensee;
- (d) Failing to obtain the consent of the Council before making any material change to any premises, vehicle or vessel to which the Licence relates;
- (e) Failing to surrender the Licence (1) after it has been superseded or (2) when the Licensee has given up the activity to which it relates;
- (f) Failing to disclose convictions in the Application Form;
- (g) Making a false statement when filling in the Application Form.

The above list is not exhaustive and reference should be made to the Civic Government (Scotland) Act 1982 for all offences under the Act.

A full list of Highland Council Service Points can be viewed at:

www.highland.gov.uk/livinghere/servicepointnetwork/