

REPORT TO: East Lothian Licensing Sub -Committee

MEETING DATE: 8 December 2016

BY: Service Manager - Licensing, Admin & Democratic Services

SUBJECT: Impact of Immigration Act 2016

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1 PURPOSE

- 1.1 To inform the Licensing Sub-Committee of the impact of the Immigration Act 2016 (the 2016 Act) which has introduced measures to prevent illegal working in the Taxi and Private Hire Car.

2 RECOMMENDATIONS

- 2.1 To note the terms of the report so that the members of the Licensing Sub-Committee are aware of impact of the 2016 Act and to authorise the Service Manager – Licensing Admin and Democratic Services to align any internal processes to comply with the legislation.

3 BACKGROUND

- 3.1 With effect from the 1 December 2016, the provisions of the 2016 Act prohibit all licensing authorities from issuing licences to anyone who is disqualified by reason of their immigration status.
- 3.2 Local Authorities must discharge their duties by conducting immigration checks upon each applicant for a Taxi or Private Hire Car Driver Licence. These checks must be performed when an applicant first applies for a licence or first applies to renew or extend their licence, on or after the 1st December 2016.
- 3.3 This report has a briefing note attached which explains the 3 step check to be carried out by Local Authorities.

4 POLICY IMPLICATIONS

- 4.1 None

5 INTEGRATED IMPACT ASSESSMENT

5.1 The subject of this report does not affect the wellbeing of the community or have a significant impact on equality, the environment or economy.

6 RESOURCE IMPLICATIONS

6.1 Financial – Not applicable.

6.2 Personnel – The 3 step check will involve an increase in resources as the interviews require to be conducted in person.

6.3 Other - None

7 BACKGROUND PAPERS

7.1 None

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Right to Work – Taxi & Private Hire Car Drivers

The Three Step Check

Obtain – Check – Copy

Obtain

In order to carry out these checks, officers must obtain **ORIGINAL** document(s) from the applicant which demonstrate their right to work in the United Kingdom. These documents must be listed in either **List A (range of documents which may be accepted for a person who has permanent right to remain in the UK)** or **List B (range of documents which may be accepted from a person who has a temporary right to be in the UK)** of prescribed documents which are displayed in Appendix 1.

Check

The officer must check, in the presence of the applicant, that the document(s) are genuine and that the person presenting them is the licence applicant, the rightful holder of the document(s), and not disqualified from obtaining a licence.

The following checks should be made:

- Photographs and Dates of Birth are consistent across documents, and with the applicant's appearance in order to detect impersonation.
- Expiry dates for permission to be in the UK have not passed.
- Any work restrictions to determine if the applicant is prohibited from holding a licence.
- Document(s) appear genuine, have not been tampered with, and belong to the holder.
- Reasons and evidence for any difference in names across documents (eg original marriage certificate, divorce decree absolute, deed poll etc).

Copy

Officers must make a clear copy (scan and photocopy) of each document and these should be retained securely. What should be copied:

- **Passports** – any page with the document expiry date, the holder's nationality, date of birth, signature, permission expiry date, biometric details, photograph and any information indicating the holder has an entitlement to enter or remain in the UK and is not prohibited by their conditions of work from holding a licence.

- **All Other Documents** – the document in full, including both sides of a Biometric Residence Permit and a Residence Card (biometric format).

PLEASE NOTE - A UK DRIVER'S LICENCE IS NOT EVIDENCE OF LAWFUL STATUS AN RIGHT TO WORK.

Interviews

As these immigration checks will have to be carried out in person, it will no longer be possible for an applicant to submit their applications by post or to simply turn up at the payment desks of East Lothian Council Offices.

Each Applicant will be therefore required to attend pre-arranged interviews, to which they should bring:

- Their completed application form.
- Payment of the fees due.
- Document(s) contained within either **List A** or **List B** in Appendix 1.
- Any other supporting documentation or evidence.

Where applicants produce documents from List A, these should be stored and no further immigration checks are required for as long as that person holds the licence.

Where applicants produce documents from List B, these should be stored, however new immigration checks will be required at each renewal or application for extension.

Applicants wishing to renew their Licences will be contacted by East Lothian Council prior to the expiry date of their existing Licence. They will be offered an interview slot and advised to contact the Council without delay should this need to be re-arranged.

This should be accommodated where possible, but the onus remains with the applicant to ensure that their application and all associated immigration checks are made prior to the expiry of their current licence.

Where applicants produce documents from List A, these should be stored and no further immigration checks are required for as long as that person holds the licence.

Where applicants produce documents from List B, these should be stored, however new immigration checks will be required at each renewal or application for extension.

First-time applicants should be advised to make an appointment with the Licensing Team, and to bring with them the documents and payment as above.

It will not be possible to provide interviews on demand for those attending East Lothian Council Offices on spec. Applicants must have pre-arranged appointments before interviews can be held.

Interviews will normally be held within John Muir House, Haddington but these can also be held in any other East Lothian Council Office, should the need arise.

APPENDIX 1 – Lists of Acceptable Documents

List A

1. **A Passport (Current or Expired)** showing the holder, or a person named 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 (Current or Expired)** showing the holder, or a person named as the child of the holder, is a national of a European Economic Area (EEA) country or Switzerland.
3. **A Registration Certificate or Document Certifying Permanent Residence** issued by the Home Office to a national of an EEA country or Switzerland.
4. **A Permanent Residence Card** issued by the Home Office to a family member of a national of an EEA country or Switzerland.
5. **A Current Biometric Immigration Document (Biometric Residence Permit – BRP)** 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 Passport (Current or Expired)** 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 (eg. **Indefinite Leave to Remain Stamps (ILR)**).
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.
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

1. **A Passport (Current or Expired)** 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 (BIP)** 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 type of work in question.
3. **A current Residence Card (inc. Accession and Derivative Residence Cards)** issued by the Home Office to a non-EEA national who is a family member of a national of an EEA country or Switzerland or who has a derivative right of residence.
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.
5. **A Certificate of Application** issued by the Home Office under regulation 17(3) or 18A (2) of the Immigration (EEA) Regulations 2006, to a family member of a national of an EEA 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.
6. **A verification** issued by the Home Office Enquiry Unit to ELC, 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 6 months from the date of the licence decision.

REPORT TO: East Lothian Licensing Sub -Committee

MEETING DATE: 8 December 2016

BY: Service Manager - Licensing, Admin & Democratic Services

SUBJECT: Air Weapons & Licensing (Scotland) Act 2015

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1 PURPOSE

- 1.1 To inform the Licensing Sub-Committee of the proposed changes to the Civic Government (Scotland) Act 1982 contained within the Air Weapons and Licensing (Scotland) Act 2015.

2 RECOMMENDATIONS

To note the terms of the report so that the members of the Licensing Sub-Committee are aware of changes in the Civic Government (Scotland) Act 1982 and to authorise the Service Manager – Licensing Admin and Democratic Services to align any internal processes to comply with the legislation.

3 BACKGROUND

- 3.1 On 14 May 2014 the Air Weapons and Licensing (Scotland) Bill was introduced in the Scottish Parliament. The Bill for this Act of the Scottish Parliament was passed by the Parliament on 25th June 2015 and received Royal Assent on 4th August 2015. The purpose of the Act is to extend the licensing provisions of the Civic Government (Scotland) Act 1982. To date there have been 5 commencement orders that brings the legislation into force. The 5th commencement order brought into force the majority of the legislation that affected the licensing provisions of the Civic Government (Scotland) Act 1982 with effect from 1 November 2016, with three exceptions, which come in on 1 May 2017. These are detailed as follows :-
- 3.2 **Sections in force from 1 November 2016 are:-**

S.64

This section extends the present provisions that relate only to taxi drivers, whereby a Council **may** require drivers to undergo a “knowledge”

type test of the local area. At present, ELC do not require taxi drivers to undergo a knowledge test. However should this policy change, Private Hire Car drivers will also be required to undergo the knowledge test.

S.71-

This section empowers the Scottish Government to introduce regulations for the set up and running of a Register of Metal dealers and itinerant metal dealers.

S.75-

This section removes the exemption to have a Public Entertainment Licence if there is a liquor licence in place.

S.78-

This extends the suspension powers available to the Licensing Sub-Committee to include the power to revoke the licence.

S.80-81

This grants powers to the Scottish Government to specify mandatory licence conditions.

S.83-

This section allows for the Council to (1) accept paperwork (applications, objections, notifications etc) and (2) to issue decisions, notices etc, by electronic means.

Sections in force from 1 May 2017

S. 63-

This section enables the Council to refuse a Private Hire Car licence application if it would result in over-provision in the area.

S.77-

This places an absolute obligation on the Council to consider applications within three months and determine them within 6 months of the end of the previous 3 month period.

S.82-

This section introduces the Civic Licensing Standards Officer.

4 POLICY IMPLICATIONS

4.1 None

5 INTEGRATED IMPACT ASSESSMENT

5.1 The subject of this report does not affect the wellbeing of the community or have a significant impact on equality, the environment or economy.

6 RESOURCE IMPLICATIONS

6.1 Financial – Not applicable

6.2 Personnel – Not applicable

Other -The Service Manager – Licensing Admin and Democratic Services to consider if there has to be resources assigned to align any internal processes to comply with the legislation.

7 BACKGROUND PAPERS

7.1 None

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