

**Changes to legislation:** Immigration Act 2016, Cross Heading: Local Government (Miscellaneous Provisions) Act 1976 (c. 57) is up to date with all changes known to be in force on or before 19 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

## SCHEDULES

### SCHEDULE 5

#### PRIVATE HIRE VEHICLES ETC

##### *Local Government (Miscellaneous Provisions) Act 1976 (c. 57)*

- 17 The Local Government (Miscellaneous Provisions) Act 1976 is amended as follows.

#### Commencement Information

- II** Sch. 5 para. 17 in force at 1.12.2016 by S.I. 2016/1037, reg. 5(i) (with reg. 6)

- 18 (1) Section 51 (licensing of drivers of private hire vehicles) is amended as follows.
- (2) In subsection (1)—
- (a) in paragraph (a) after “satisfied” insert “—(i)”, and
- (b) for the “or” at the end of paragraph (a) substitute “and
- (ii) that the applicant is not disqualified by reason of the applicant's immigration status from driving a private hire vehicle; or”.
- (3) After subsection (1) insert—
- “(1ZA) In determining for the purposes of subsection (1) whether an applicant is disqualified by reason of the applicant's immigration status from driving a private hire vehicle, a district council must have regard to any guidance issued by the Secretary of State.”

#### Commencement Information

- I2** Sch. 5 para. 18 in force at 1.12.2016 by S.I. 2016/1037, reg. 5(i) (with reg. 6)

- 19 In section 53(1) (drivers' licences for hackney carriages and private hire vehicles)—
- (a) in paragraph (a) for “Every” substitute “ Subject to section 53A, every ”, and
- (b) in paragraph (b) after “1889,” insert “ but subject to section 53A, ”.

#### Commencement Information

- I3** Sch. 5 para. 19 in force at 1.12.2016 by S.I. 2016/1037, reg. 5(i) (with reg. 6)

- 20 After section 53 insert—

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### **“53A Drivers' licences for persons subject to immigration control**

- (1) Subsection (2) applies if—
  - (a) a licence within section 53(1)(a) or (b) is to be granted to a person who has been granted leave to enter or remain in the United Kingdom for a limited period (“the leave period”);
  - (b) the person's leave has not been extended by virtue of section 3C of the Immigration Act 1971 (continuation of leave pending variation decision); and
  - (c) apart from subsection (2), the period for which the licence would have been in force would have ended after the end of the leave period.
- (2) The district council which grants the licence must specify a period in the licence as the period for which it remains in force; and that period must end at or before the end of the leave period.
- (3) Subsection (4) applies if—
  - (a) a licence within section 53(1)(a) or (b) is to be granted to a person who has been granted leave to enter or remain in the United Kingdom for a limited period; and
  - (b) the person's leave has been extended by virtue of section 3C of the Immigration Act 1971 (continuation of leave pending variation decision).
- (4) The district council which grants the licence must specify a period in the licence as the period for which it remains in force; and that period must not exceed six months.
- (5) A licence within section 53(1)(a) ceases to be in force if the person to whom it was granted becomes disqualified by reason of the person's immigration status from driving a private hire vehicle.
- (6) A licence within section 53(1)(b) ceases to be in force if the person to whom it was granted becomes disqualified by reason of the person's immigration status from driving a hackney carriage.
- (7) If a licence granted in accordance with subsection (2) or (4) expires, the person to whom it was granted must, within the period of 7 days beginning with the day after that on which it expired, return the licence and the person's driver's badge to the district council which granted the licence.
- (8) If subsection (5) or (6) applies to a licence, the person to whom it was granted must, within the period of 7 days beginning with the day after the day on which the person first became disqualified, return the licence and the person's driver's badge to the district council which granted the licence.
- (9) A person who, without reasonable excuse, contravenes subsection (7) or (8) is guilty of an offence and liable on summary conviction—
  - (a) to a fine not exceeding level 3 on the standard scale; and
  - (b) in the case of a continuing offence, to a fine not exceeding ten pounds for each day during which an offence continues after conviction.

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- (10) The Secretary of State may by regulations made by statutory instrument amend the amount for the time being specified in subsection (9)(b).
- (11) Regulations under subsection (10) may make transitional, transitory or saving provision.
- (12) A statutory instrument containing regulations under subsection (10) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.”

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**Commencement Information**

**I4** Sch. 5 para. 20 in force at 1.12.2016 by S.I. 2016/1037, reg. 5(i) (with reg. 6)

- 21 (1) Section 55 (licensing of operators of private hire vehicles) is amended as follows.
- (2) In subsection (1)—
- (a) after “satisfied” insert “ —(a) ”, and
  - (b) at the end of paragraph (a) insert “; and  
(b) if the applicant is an individual, that the applicant is not disqualified by reason of the applicant's immigration status from operating a private hire vehicle.”
- (3) After subsection (1) insert—
- “(1A) In determining for the purposes of subsection (1) whether an applicant is disqualified by reason of the applicant's immigration status from operating a private hire vehicle, a district council must have regard to any guidance issued by the Secretary of State.”
- (4) In subsection (2) for “Every” substitute “ Subject to section 55ZA, every ”.

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**Commencement Information**

**I5** Sch. 5 para. 21 in force at 1.12.2016 by S.I. 2016/1037, reg. 5(i) (with reg. 6)

- 22 After section 55 insert—

**“55ZA Operators' licences for persons subject to immigration control**

- (1) Subsection (2) applies if—
  - (a) a licence under section 55 is to be granted to a person who has been granted leave to enter or remain in the United Kingdom for a limited period (“the leave period”);
  - (b) the person's leave has not been extended by virtue of section 3C of the Immigration Act 1971 (continuation of leave pending variation decision); and
  - (c) apart from subsection (2), the period for which the licence would have been in force would have ended after the end of the leave period.

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- (2) The district council which grants the licence must specify a period in the licence as the period for which it remains in force; and that period must end at or before the end of the leave period.
- (3) Subsection (4) applies if—
  - (a) a licence under section 55 is to be granted to a person who has been granted leave to enter or remain in the United Kingdom for a limited period; and
  - (b) the person's leave has been extended by virtue of section 3C of the Immigration Act 1971 (continuation of leave pending variation decision).
- (4) The district council which grants the licence must specify a period in the licence as the period for which it remains in force; and that period must not exceed six months.
- (5) A licence under section 55 ceases to be in force if the person to whom it was granted becomes disqualified by reason of the person's immigration status from operating a private hire vehicle.
- (6) If a licence granted in accordance with subsection (2) or (4) expires, the person to whom it was granted must, within the period of 7 days beginning with the day after that on which it expired, return the licence to the district council which granted the licence.
- (7) If subsection (5) applies to a licence, the person to whom it was granted must, within the period of 7 days beginning with the day after the day on which the person first became disqualified, return it to the district council which granted the licence.
- (8) A person who, without reasonable excuse, contravenes subsection (6) or (7) is guilty of an offence and liable on summary conviction—
  - (a) to a fine not exceeding level 3 on the standard scale; and
  - (b) in the case of a continuing offence, to a fine not exceeding ten pounds for each day during which an offence continues after conviction.
- (9) The Secretary of State may by regulations made by statutory instrument amend the amount for the time being specified in subsection (8)(b).
- (10) Regulations under subsection (9) may make transitional, transitory or saving provision.
- (11) A statutory instrument containing regulations under subsection (9) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.”

**Commencement Information**

**I6** Sch. 5 para. 22 in force at 1.12.2016 by S.I. 2016/1037, reg. 5(i) (with reg. 6)

- 23 (1) Section 59 (qualification for drivers of hackney carriages) is amended as follows.
- (2) In subsection (1)—

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- (a) in paragraph (a) after “satisfied” insert “ —(i) ”, and
- (b) for the “or” at the end of paragraph (a) substitute “and
  - (ii) that the applicant is not disqualified by reason of the applicant's immigration status from driving a hackney carriage; or”.

(3) After subsection (1) insert—

“(1ZA) In determining for the purposes of subsection (1) whether an applicant is disqualified by reason of the applicant's immigration status from driving a hackney carriage, a district council must have regard to any guidance issued by the Secretary of State.”

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**Commencement Information**

**I7** Sch. 5 para. 23 in force at 1.12.2016 by S.I. 2016/1037, reg. 5(i) (with reg. 6)

24 (1) Section 61 (suspension and revocation of drivers' licences) is amended as follows.

(2) In subsection (1) before the “or” at the end of paragraph (a) insert—

“(aa) that he has since the grant of the licence been convicted of an immigration offence or required to pay an immigration penalty;”.

(3) After subsection (1) insert—

“(1A) Subsection (1)(aa) does not apply if—

- (a) in a case where the driver has been convicted of an immigration offence, the conviction is a spent conviction within the meaning of the Rehabilitation of Offenders Act 1974, or
- (b) in a case where the driver has been required to pay an immigration penalty—
  - (i) more than three years have elapsed since the date on which the penalty was imposed, and
  - (ii) the amount of the penalty has been paid in full.”

(4) After subsection (2) insert—

“(2ZA) The requirement in subsection (2)(a) to return a driver's badge does not apply in a case where section 62A applies (but see subsection (2) of that section).”

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**Commencement Information**

**I8** Sch. 5 para. 24 in force at 1.12.2016 by S.I. 2016/1037, reg. 5(i) (with reg. 6)

25 (1) Section 62 (suspension and revocation of operators' licences) is amended as follows.

(2) In subsection (1) before the “or” at the end of paragraph (c) insert—

“(ca) that the operator has since the grant of the licence been convicted of an immigration offence or required to pay an immigration penalty;”.

(3) After subsection (1) insert—

“(1A) Subsection (1)(ca) does not apply if—

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- (a) in a case where the operator has been convicted of an immigration offence, the conviction is a spent conviction within the meaning of the Rehabilitation of Offenders Act 1974, or
- (b) in a case where the operator has been required to pay an immigration penalty—
  - (i) more than three years have elapsed since the date on which the penalty was imposed, and
  - (ii) the amount of the penalty has been paid in full.”

**Commencement Information**

**19** Sch. 5 para. 25 in force at 1.12.2016 by S.I. 2016/1037, reg. 5(i) (with reg. 6)

26 After section 62 insert—

**“62A Return of licences suspended or revoked on immigration grounds**

- (1) Subsection (2) applies if—
  - (a) under section 61 a district council suspend, revoke or refuse to renew the licence of a driver of a hackney carriage or a private hire vehicle on the ground mentioned in subsection (1)(aa) of that section, or
  - (b) under section 62 a district council suspend, revoke or refuse to renew an operator's licence on the ground mentioned in subsection (1)(ca) of that section.
- (2) The person to whom the licence was granted must, within the period of 7 days beginning with the relevant day, return to the district council—
  - (a) the licence, and
  - (b) in the case of a licence of a driver of a hackney carriage or a private hire vehicle, the person's driver's badge.
- (3) In subsection (2) “the relevant day” means—
  - (a) where the licence is suspended or revoked, the day on which the suspension or revocation takes effect;
  - (b) where the district council refuse to renew the licence, the day on which the licence expires as a result of the failure to renew it.
- (4) A person who, without reasonable excuse, contravenes subsection (2) is guilty of an offence and liable on summary conviction—
  - (a) to a fine not exceeding level 3 on the standard scale, and
  - (b) in the case of a continuing offence, to a fine not exceeding ten pounds for each day during which an offence continues after conviction.
- (5) The Secretary of State may by regulations made by statutory instrument amend the amount for the time being specified in subsection (4)(b).
- (6) Regulations under subsection (5) may make transitional, transitory or saving provision.

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- (7) A statutory instrument containing regulations under subsection (5) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.”

**Commencement Information**

**I10** Sch. 5 para. 26 in force at 1.12.2016 by S.I. 2016/1037, reg. 5(i) (with reg. 6)

27 In section 77 (appeals) after subsection (3) insert—

“(4) On an appeal under this Part of this Act or an appeal under section 302 of the Act of 1936 as applied by this section, the court is not entitled to entertain any question as to whether—

- (a) a person should be, or should have been, granted leave to enter or remain in the United Kingdom; or
- (b) a person has, after the date of the decision being appealed against, been granted leave to enter or remain in the United Kingdom.”

**Commencement Information**

**I11** Sch. 5 para. 27 in force at 1.12.2016 by S.I. 2016/1037, reg. 5(i) (with reg. 6)

28 After section 79 insert—

**“79A Persons disqualified by reason of immigration status**

- (1) For the purposes of this Part of this Act a person is disqualified by reason of the person's immigration status from carrying on a licensable activity if the person is subject to immigration control and—
- (a) the person has not been granted leave to enter or remain in the United Kingdom; or
  - (b) the person's leave to enter or remain in the United Kingdom—
    - (i) is invalid;
    - (ii) has ceased to have effect (whether by reason of curtailment, revocation, cancellation, passage of time or otherwise); or
    - (iii) is subject to a condition preventing the person from carrying on the licensable activity.
- (2) Where a person is on immigration bail within the meaning of Part 1 of Schedule 10 to the Immigration Act 2016—
- (a) the person is to be treated for the purposes of this Part of this Act as if the person had been granted leave to enter the United Kingdom; but
  - (b) any condition as to the person's work in the United Kingdom to which the person's immigration bail is subject is to be treated for those purposes as a condition of leave.
- (3) For the purposes of this section a person is subject to immigration control if under the Immigration Act 1971 the person requires leave to enter or remain in the United Kingdom.

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- (4) For the purposes of this section a person carries on a licensable activity if the person—
- (a) drives a private hire vehicle;
  - (b) operates a private hire vehicle; or
  - (c) drives a hackney carriage.

### **79B Immigration offences and immigration penalties**

- (1) In this Part of this Act “immigration offence” means—
- (a) an offence under any of the Immigration Acts;
  - (b) an offence under section 1 of the Criminal Attempts Act 1981 of attempting to commit an offence within paragraph (a); or
  - (c) an offence under section 1 of the Criminal Law Act 1977 of conspiracy to commit an offence within paragraph (a).
- (2) In this Part of this Act “immigration penalty” means a penalty under—
- (a) section 15 of the Immigration, Asylum and Nationality Act 2006 (“the 2006 Act”); or
  - (b) section 23 of the Immigration Act 2014 (“the 2014 Act”).
- (3) For the purposes of this Part of this Act a person to whom a penalty notice under section 15 of the 2006 Act has been given is not to be treated as having been required to pay an immigration penalty if—
- (a) the person is excused payment by virtue of section 15(3) of that Act; or
  - (b) the penalty is cancelled by virtue of section 16 or 17 of that Act.
- (4) For the purposes of this Part of this Act a person to whom a penalty notice under section 15 of the 2006 Act has been given is not to be treated as having been required to pay an immigration penalty until such time as—
- (a) the period for giving a notice of objection under section 16 of that Act has expired and the Secretary of State has considered any notice given within that period; and
  - (b) if a notice of objection was given within that period, the period for appealing under section 17 of that Act has expired and any appeal brought within that period has been finally determined, abandoned or withdrawn.
- (5) For the purposes of this Part of this Act a person to whom a penalty notice under section 23 of the 2014 Act has been given is not to be treated as having been required to pay an immigration penalty if—
- (a) the person is excused payment by virtue of section 24 of that Act; or
  - (b) the penalty is cancelled by virtue of section 29 or 30 of that Act.
- (6) For the purposes of this Part of this Act a person to whom a penalty notice under section 23 of the 2014 Act has been given is not to be treated as having been required to pay an immigration penalty until such time as—
- (a) the period for giving a notice of objection under section 29 of that Act has expired and the Secretary of State has considered any notice given within that period; and



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- (b) if a notice of objection was given within that period, the period for appealing under section 30 of that Act has expired and any appeal brought within that period has been finally determined, abandoned or withdrawn.”

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**Commencement Information**

**I12** Sch. 5 para. 28 in force at 1.12.2016 by S.I. 2016/1037, reg. 5(i) (with reg. 6)

**Changes to legislation:**

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**Changes and effects yet to be applied to :**

- specified provision(s) amendment to earlier commencing S.I. 2017/1241, Sch. by [S.I. 2018/31 reg. 2](#)

**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 69(9)(d) and word inserted by [2023 c. 37 s. 21\(2\)\(b\)](#)
- Sch. 10 para. 3(2)(eza) inserted by [2023 c. 37 s. 13\(3\)\(a\)](#)
- Sch. 10 para. 3(3A)-(3C) inserted by [2023 c. 37 s. 13\(3\)\(b\)](#)
- Sch. 10 para. 3A and cross-heading inserted by [2023 c. 37 s. 13\(4\)](#)