



## **TAXI/PRIVATE HIRE DRIVER'S LICENCE GUIDANCE NOTES FOR APPLICANTS**

### **APPENDIX 1**

#### **Guidance on Right to Work Checks under the Immigration Act 2016**

From 1 December 2016, all Scottish Local Authorities have a statutory duty under the Immigration Act 2016 to carry out checks to verify that applicants have the right to live in the UK and work as a taxi or private hire car driver.

This guidance explains:

- how those checks will be carried out;
- what happens if you can't provide evidence;
- what happens if you have a restriction on your right to work in the UK; and
- what information may be supplied to the Home Office and other government agencies.

The guidance also answers some of the most frequently asked questions.

#### **Why are right to work checks being carried out?**

The Immigration Act 2016 places a number of legal obligations on councils in relation to immigration – this includes checking that all applicants have the right to work as taxi or private hire car drivers.

The Home Office has published statutory guidance to Local Authorities on how to carry out its duties under the 2016 Act. This guidance includes instruction on how right to work checks should be carried out by Local Authorities. You can view this guidance using the link here: [Home Office Statutory Guidance](#)

#### **How are right to work checks carried out?**

Your right to work check will be carried out after your application form has been submitted to the Council. This check would normally have been done Face to Face however due to the Covid Restrictions and the Access Point being closed the following processes have been put into place:

You can either:

Provide an online check code through this link <https://www.gov.uk/prove-right-to-work> from the [www.gov.uk](http://www.gov.uk) website.

By providing this link you will not be required to provide physical documents, as right to work information is provided in real time direct from Home Office systems.

This service can be used by those with a current Biometric Residence Permit or Card, status under the EU Settlement Scheme, or the points-based immigration system. Once you have generated your code from the above link print this clearly on your application form. We may still contact you for additional information

Or

Post your original documents in to the Moray Council along with your application form and any other required supporting evidence. We suggest you send these documents recorded delivery as the Council cannot be held responsible for their loss. Your documents will then be returned to you by Royal Mail via their "Signed For" service to evidence their return.

Or

When the access point re-opens you may supply the code or original documentation in person to the access point

Further information can be found on GOV.UK at <https://www.gov.uk/guidance/coronavirus-covid-19-right-to-work-checks>

### **What happens if I can't provide evidence of my right to work in the UK?**

The Council cannot grant an application unless the applicant provides the prescribed document(s) evidencing their right to work in the UK as a taxi or private hire car driver. The lists contained below detail the **only** documents or document combinations that can be accepted by the Council.

If you do not hold any of these documents, you will require to take the relevant steps to obtain evidence of your right to work. For example, a British Citizen born in the UK who does not hold a passport or copy of their birth certificate will require to obtain one of these documents before applying for a licence.

We cannot process your application any further if you cannot provide satisfactory evidence. If this happens, we will write to you confirming that your application has been refused.

### **What happens if I have a restriction on my right to work in the UK?**

List B below contains a list of document and document combinations that evidence an applicant has a restriction on their entitlement to work as a taxi or private hire driver due their immigration status.

If your right to work check is verified using List B documentation then, if granted, the duration of your licence may be restricted.

Licences for grant or renewal are generally granted for a period of three years. If your right to work legally as a taxi or private hire car driver expires before the end of the proposed three year licence term, then your licence will be restricted and will expire at the same time as your right to work. You will be able to apply to renew the licence, at which time you will be subject to a further right to work check.

Please note that if the evidence of your right to work is based on an outstanding, in time application, appeal or administrative review with the Home Office, then the Council can only grant your licence for a maximum period of 6 months.

List A below contains a list of documentation that an applicant can supply to evidence that they have no restrictions on their entitlement to work as a taxi or private hire car driver.

If you produce the documentation set out in List A then, if granted, your licence duration will not be restricted due to your right to work.

### **Will my details be supplied to the Home Office and other Government Bodies?**

If necessary, the Council may pass your details to the Home Office in order to make further enquiries regarding your immigration status and right to work in the UK. In addition, the Home Office may request that we supply them with copies of your documentation in relation to immigration and right to work enquiries.

Applicants who cannot produce the necessary evidence should be aware that their details may be passed to the Home Office and that the Home Office may also pass your details to other Government bodies such as the DVLA in relation to immigration matters.

List A: No restriction on the right to work in the UK	
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.
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.
11	A letter issued by this Council, as Licensing Authority, confirming that since December 2016 the holder has provided sufficient evidence that they have no restrictions on their right to live and work in the UK.
	List B: Restriction on the right to work in the UK
1	A current passport endorsed to show that the holder is allowed to stay in the UK and is currently allowed to work as a taxi driver or private hire car driver.
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 work as a taxi driver or private hire car driver.
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.
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 work as a taxi driver and private hire car driver, 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 (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. Please note that the Council will take further steps to verify the status of your application through the Home Office Evidence and Enquiry Unit.

### **Frequently Asked Questions (FAQs)**

- **Do all applicants have to provide evidence of their right to work?**

The Council must carry out this check on all applicants, irrespective of their nationality or ethnicity. This includes applicants who are currently licensed with the Authority and may have previously provided evidence of their right to work prior to 1 December 2016. These checks are carried out each time an application is submitted.

- **Can I apply for a three year licence if I only have limited leave to remain in the UK?**

You can apply for a licence but if there are restrictions on the length of time you may stay or work in the UK, your licence will not be issued for any longer than the period stipulated by those restrictions.

- **What happens if I hold a licence but my immigration status changes?**

If you are licensed as a Taxi or Private Hire Car Driver but are unable to legally work due to a change in your immigration status, then your licence immediately ceases to have effect and you will lose the right to work as a taxi or private hire car driver. **If this happens you must return the licence to the Council within 7 days; failure to do so is a criminal offence.**

**Note:** If necessary, the Council may pass your details to the Home Office in order to make further enquiries regarding your immigration status and right to work in the UK. In addition, the Home Office may request that we supply them with copies of your documentation in relation to immigration and right to work enquiries.

Applicants who cannot produce the necessary evidence should be aware that their details may be passed to the Home Office and that the Home Office may also pass your details to other Government bodies such as the DVLA in relation to immigration matters.