



CIVIC GOVERNMENT (SCOTLAND) ACT 1982 TAXI/ PRIVATE HIRE VEHICLE BOOKING OFFICES

GUIDANCE NOTES FOR APPLICANTS

These guidance notes have been produced in an effort to assist applicants, but all applicants and other persons should obtain legal advice from their own solicitors and advisors as to the legal requirements.

The licensing requirement for taxi/private hire vehicle booking offices was introduced by the Civic Government (Scotland) Act 1982 (Licensing of Booking Offices) Order 2009 on 16 November 2009.

A Consequential Order made under the provisions of the Immigration Act 2016 came into force on 22 January 2018. As a result, Scottish Borders Council will not be able to issue a taxi/private hire vehicle booking office licence to any person unless a check has first been made to confirm that the applicant is not disqualified by reason of his or her immigration status to operate as a booking office.

This will mean that all applicants for taxi/private hire vehicle booking offices, including UK passport holders, will need to attend their nearest licensing office in person with their original document(s) demonstrating that they have the right to work in the UK. Acceptable forms of ID are as detailed below.

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

ACCEPTABLE FORMS OF ID

If you are a British Citizen please provide your current passport with the application. If you do not have a current passport then please provide your birth certificate along with either your national insurance card or most up to date P60/P45.

If you are an EU National please provide your passport or national identity card with the application.

If you are not a British Citizen or an EU National please provide your passport and residence permit confirming your immigration status and right to work in the UK.

REQUIREMENT TO HOLD A LICENCE

(a) A licence is required for "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". "Relevant vehicles" are licensed taxis and private hire cars.

(b) The types of premises that could come into the licensing regime could include: offices accepting telephone/internet bookings; shops, offices or counters within buildings where members of the public can attend to book a taxi or private hire car; or private dwellinghouses where these are used to receive telephone bookings.

(c) The premises require to be situated within the area of Scottish Borders Council. If the premises are situated in another Council area, applicants should contact that Council to obtain a licence from them.

(d) It is important that the correct person applies for and holds the licence. The licence can be held in the name of an individual person, a partnership, limited partnership or limited company. The licence should

generally be held by the relevant business that operates the booking office premises and not in a different name. Applicants should consult their legal advisors and/or accountants if they are unsure of this point.

(e) The premises that require to be licensed are the actual place where bookings are 'taken'. Every operation will have to be checked to see how it is actually operated, but it is suggested that this would be the place where the person or employee is when they advise the customer that the request for a booking has been accepted. For example, a telephone call by a member of the public to a central booking office would require the central booking office to be licensed.

(f) Operators have asked for guidance as to the licences required if a booking office is used by several different booking firms or companies at the same time. Applicants should obtain their own legal advice and discuss their particular operations with the Council, but it is suggested that each separate person or company might require to hold their own licence for the same premises, as they would all be using the premises at the same time.

EXEMPTION FOR SMALL BOOKING OFFICES

The Order states that a licence is not required where the number of taxis or private hire cars in respect of which bookings are taken from that premises does not at any time exceed 3.

This exemption appears to be aimed at persons who only ever take bookings for three or less taxis or private hire cars. Booking office operators who normally take bookings for three or less taxis or private hire cars, but occasionally arrange bookings for other taxis or private hire cars, who would have to either obtain a Booking Office licence or decline to accept bookings for those extra taxis or private hire cars.

APPLICATION PROCEDURE

Application form. The Council's application form can be downloaded from the licensing section of the Council's website www.scotborders.gov.uk or can be collected or requested from the Licensing Unit, Scottish Borders Council, Council Headquarters, Newtown St Boswells, TD6 0SA. Tel: 01835 826662 or e-mail liquorandlicensing@scotborders.gov.uk.

In support of your application and evidence of your Right to Work in the UK, you will also be required to submit a copy of your public liability insurance, a layout plan of the premises and a copy of your policy for dealing with complaints from the public.

Identification of the premises. It is up to the applicant to describe the premises to which the licence will apply. It is suggested that this would be the whole premises which are used by the booking office. If it is desired to designate part of a building as the premises, the application should make clear which part is to be licensed. A layout plan of the premises will require to be submitted with your application.

Fee. The application form should be accompanied with the appropriate application fee which is presently £285 for a three year licence, new or renewal. The fee is designed to recover the Council's costs in dealing with applications and enforcement, including responding to complaints from public, as detailed below.

Site Notice. When submitting an application for a licence (or for renewal), the applicant will have to ensure that they display a site notice for a period of 21 days, commencing on the date the application is lodged with the Council. The Notice must be displayed at or near the premises, in a position where it can be easily read by the public. Once the Notice has been displayed for 21 days, it must then be returned to the Council's Licensing Unit together with the signed declaration completed on the Notice to certify that it has been displayed.

Where to make the application. The application form and fee should be submitted to the Licensing Unit, Scottish Borders Council, Council Headquarters, Newtown St Boswells, Melrose, TD6 0SA. The application can also be made in person at the main reception at the same address during office hours – Monday to Thursday 8.45am - 5.00pm, Friday 8.45am - 3.45pm.

WHAT WILL HAPPEN WITH YOUR APPLICATION

Copies of applications are sent to the Police, Fire and Rescue Service and the Council's Trading Standards Department.

The fitness of the applicant and the suitability of the premises require to be assessed. If no objections or adverse comments are received, and the application is regarded as non-contentious, it could be granted under delegated powers. All other applications would be referred to the Council's Civic Government Licensing Committee for consideration.

One of the issues that may arise would be the use of domestic premises as a place for accepting bookings, possibly only using mobile phones for communication. An operator may have to apply to obtain planning permission for change of use to permit this. If a radio communications system is involved, separate permission may be required from Ofcom.

WHEN A LICENCE IS GRANTED

Conditions of licence. In the event that a licence is granted, it will be subject to certain conditions. Failure to observe these conditions is a criminal offence and could lead to the licence being suspended or removed. Some conditions are mandatory and are set out in the Order. The Council can impose other local conditions. Please note that the mandatory conditions will not apply until the licence is granted.

Mandatory Conditions

- (a) a record has to be kept of every booking for the hire of a licensed taxi or private hire car taken at the relevant premises;
- (b) a record has to be kept of:
 - (i) the registration number of the vehicle which was hired as the result of a booking taken at the relevant premises; and
 - (ii) the name of the driver at the time of that hire; and
- (c) the holder of the licence shall take all reasonable steps to ensure that any booking taken at the relevant premises from a member of the public for the hire of a licensed taxi or private hire car results in the hire of a vehicle which is:
 - (i) a licensed taxi or private hire car; and
 - (ii) driven by a person who holds a licence granted under Section 13 of the Act and that licence is in effect.

Local Conditions

The type of conditions to be included in the licence have yet to be decided. The Council will consult those involved in the licensing scheme with a view to establishing what additional local conditions, if any, will be applied in future.

RIGHTS OF INSPECTION BY POLICE AND COUNCIL OFFICERS

In terms of Section 5 of the Civic Government (Scotland) Act 1982, an authorised officer of the Council or a Constable may, at any reasonable time:

- (a) enter and inspect any booking office premises for which a licence is in force or for which a licence has been applied for;
- (b) require production of and inspect any equipment, plant, apparatus or stock-in-trade which is or is to be kept or used in connection with any such activity;

(c) require production of and inspect any records or other documents required by or to be kept by the licence holder and take copies of extracts from any such record or document.

Any person who:

being a person for the time being in charge of any premises fails, without reasonable excuse, to permit a constable or an authorised officer of the Council to enter or inspect the premises or obstructs their entry; or

who fails, without reasonable excuse, to produce any equipment, plant, apparatus or stock-in-trade; or

being a holder of a licence, on being required by a constable or a Council officer, to produce any records or other document required to be kept, fails without reasonable excuse to produce them;

shall be guilty of criminal offence.

CHANGES TO LICENCE HOLDER OR PREMISES

Physical Alterations to Premises – Paragraph 10(2) of Schedule 1 to the Civic Government (Scotland) Act 1982 prohibits any material alterations being made to licensed premises unless the prior written consent of the Council is obtained. Application forms for consent can be obtained from the Council's Licensing Unit. Planning consent or building warrant may also be required.

Moving Booking Offices to New Premises – If the booking office is to be moved to another premises, a new booking office licence is required for these premises. The new premises cannot be used until a new licence is in effect for those premises. Applicants should therefore plan their relocations to allow time for new licence applications to be processed and for any planning and building warrant consents, completion certificates and any other permissions to be obtained to allow the new premises to be used.

Changes to Licence Holder – Any licence granted only entitles the relevant business or individuals on the licence to operate the premises as a booking office. If it is intended to operate the premises under the name of a different business entity or individual an application for an entirely new licence will be required. If it is intended to change the business entity or individuals involved, appropriate legal advice should be sought and new licences applied for and obtained before any changes take effect.

COMPLAINTS

Repeated failures on behalf of Booking Office licence holders to carry out pre-booked hires or to provide adequate services to customers may be matters that could be taken into account by the Council in assessing the licence holder's fitness to continue to hold a Booking Office Licence. Operators are therefore encouraged to have their own complaints procedures in place and to deal with complaints effectively.

Complaints from passengers may, however, be referred to the Licensing Unit.