

Committee: Licensing and Environmental Health

Agenda Item

Date: 25 January 2017

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Title: Immigration Act 2016, Right to Work Checks

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Item for decision:
yes/no

Summary

1. The purpose of this report is to inform the Committee of the changes for Taxi Licensing contained within the Immigration Act 2016.

Recommendations

2. That Members note the content of this report.

Financial Implications

3. As set out in the body of this report.

Background Papers

4. None.

Impact

- 5.

Communication/Consultation	None
Community Safety	None
Equalities	None
Health and Safety	None
Human Rights/Legal Implications	None
Sustainability	None
Ward-specific impacts	None
Workforce/Workplace	None

Situation

6. In the preparation of this report the author referred to The Immigration Act 2016 and the Guidance for Licensing Authorities to prevent Illegal Working in the taxi and private hire sector in England and Wales 1 December 2016.
7. The Immigration Act 2016 amended existing licensing regimes in the UK to seek to prevent illegal working in the PHV and taxi sector. Two new sections have been introduced and inserted into the Local Government (Miscellaneous Provisions) Act 1976, 79A and 79B which detail those who are disqualified from holding driver or operator licences by reason of immigration status and explain the meaning of immigration offences and immigration penalties.
8. With effect from 1 December 2016, the provisions in the 2016 Act prohibit all licensing authorities from issuing driver or operator licences to anyone who is disqualified by reason of their immigration status. In order to discharge this duty licensing authorities must conduct immigration checks. This means that in addition to being a 'fit and proper person' an applicant for a driver's licence must not be disqualified from holding a licence as a result of their immigration status.
9. The checking requirements are not retrospective. Licensing authorities must carry out the check when the applicant first applies or first applies to renew their licence or extend their licence on or after 1 December 2016. For those who have time-limited permission to be in the UK, the check must be repeated at each subsequent application to renew or extend the licence until such time as the applicant demonstrates that they are entitled to remain indefinitely in the UK.
10. Currently the majority of driver licences are issued for 3 years (with provision for the grant of a one year or two year licence if the circumstances of an individual application warrant it) however a new s53A has been inserted into the LG(MP)A 1976 covering applicants for drivers licences who only have a limited time to remain in the UK. This prohibits local authorities from granting a licence beyond the period of permission to remain. Identical provisions in relation to Operators licences are contained in section 55ZA covering operators licences for applicants who only have a limited time to remain in the UK. Local authorities may not grant an operators' licence that would continue beyond the limit of leave to remain in the UK.
11. For both drivers and operators, if the person loses the right to remain in the UK during the lifetime of their licence, the licence ceases to have effect. (Section 53A(7) drivers and S55ZA(5) operators). In such cases both drivers and operators are required to return the licence to the local authority within 7 days. If the licence holder, without a reasonable excuse, fails within 7 days to return the licence and badge (in the case of drivers), they commit an offence. The maximum fine is level 3 on the standard scale.
12. The new checks will require additional work on the part of the licensing team. Costs will be associated with the "issue and administration" of the licence so additional expenditure (once known) can be recovered via the drivers and operators fees under section 53 and 70 of the LG(MP)A 1976. These

additional costs would need to be levied across all licensees and will lead to an increase in licence fees for drivers and operators.

13. The Guidance issued by the Home Office indicates that original documents must be checked, but this may be in the physical presence of the applicant or by live video conference. One of our large operators has requested that we look into doing the checks using tablets and face to face internet communication and this is currently being investigated. This approach would have financial implications in terms of one off costs for the tablets, ongoing costs for the use of Skype or Airtime software and increased administrative time to ensure that pre supplied documents are securely handled , stored and returned to the applicants. As this service may potentially not be widely utilised by all our drivers and operators it raises the question of whether such additional costs should be levied across all licensees or whether there should be a specific charge at point of use on top of the licence fee.

Risk Analysis

14. There are no risks associated with this report.