

**ANGUS COUNCIL**

**CIVIC LICENSING COMMITTEE – 5 APRIL 2018**

**UPDATE REPORT – IMMIGRATION ACT 2016**

**REPORT BY THE HEAD OF LEGAL AND DEMOCRATIC SERVICES**

**ABSTRACT**

The purpose of this report is to provide an update to Members about the impact of the Immigration Act 2016 on the processing of certain types of licence applications.

**1. RECOMMENDATION**

It is recommended that the Committee:-

- (i) notes the amendment of the Civic Government (Scotland) Act 1982 by Schedule 5 of the Immigration Act 2016 with regard to taxi and private hire car driver licences;
- (ii) notes the amendment of the Civic Government (Scotland) Act 1982 (Licensing of Booking Offices) Order 2009 by the Immigration Act 2016 (Consequential Amendments) (Licensing of Booking Offices: Scotland) Regulations 2017 with regard to booking office licences;
- (iii) notes the effect of the changes on application processing for taxi and private hire car driver licences and booking office licences; and
- (iv) notes the intended future requirement for immigration checks in relation to applications for a late hours catering licence.

**2. BACKGROUND**

- 2.0 On 1 December 2016, Schedule 5 of the Immigration Act 2016 made changes to the Civic Government (Scotland) Act 1982 (“the 1982 Act”). The changes prevent a licensing authority from granting or renewing a taxi or private hire car driver’s licence to any person unless the authority are satisfied that the person is not disqualified, by reason of their immigration status, from driving a taxi or private hire car. The new section, 13A of the 1982 Act, makes provision about the circumstances in which a person is disqualified, by reason of their immigration status, from driving a taxi or private hire car.
- 2.1 On 22 January 2018, the Immigration Act 2016 (Consequential Amendments) (Licensing of Booking Offices: Scotland) Regulations 2017 made changes to the Civic Government (Scotland) Act 1982 (Licensing of Booking Offices) Order 2009. It placed a further legal duty on licensing authorities not to grant or renew a booking office licence to any person unless a check had first been made to verify that the person was not disqualified, by reason of their immigration status, from holding such a licence.

- 2.2 The Home Office issued guidance, initially on 1 December 2016, covering checks for taxi and private hire car drivers. The guidance was updated on 22 January 2018 to include checks for booking offices. The Home Office guidance can be accessed via:  
[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/675462/A\\_Licensing\\_Authority\\_guide\\_to\\_right\\_to\\_work\\_checks\\_Scotland\\_2018.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/675462/A_Licensing_Authority_guide_to_right_to_work_checks_Scotland_2018.pdf)
- 2.3 In practical terms, all applicants for new and renewal taxi, private hire car and booking office licences require to bring an original document demonstrating that they have the right to work in the UK to an arranged appointment. The Home Office has produced a list of acceptable documents. All applicants must attend the appointment in person. Licensing staff must check the validity of the original document, in the presence of the applicant, before the application can be processed and the licence issued at a later date, if appropriate. A copy of the document provided requires to be retained. In most cases, the initial check will not need to be repeated. For those that have limited permission to remain in the UK, a further check or checks may be required and the duration of any subsequent licence granted may be restricted.
- 2.4 The additional responsibilities and workload have been met, so far, by members of the Licensing Team from within current resources.
- 2.5 Members are asked to note that under the new provisions, immigration offences and penalties have been added to the list of grounds upon which taxi and private hire car drivers and booking office licences may be suspended or revoked by licensing authorities.
- 2.6 Draft regulations, "The Immigration (Alcohol Licensing and Late Hours Catering) (Scotland) Regulations 2018", have been circulated to Officers by the Scottish Government. Currently, Officers are unaware if the regulations have been finalised and, by extension, are unaware of the date of commencement for the regulations. However, the intention would appear to be to extend immigration checks to new and renewal applications for late hours catering licences. The draft regulations require licensing authorities to take the additional step of consulting with the Secretary of State regarding late hours catering licence applications. Currently, there is no requirement to consult with the Secretary of State with regard to taxi and private hire driver's licences or booking office licences. An update can be provided by Officers when the regulations have been finalised.

### **3. FINANCIAL IMPLICATIONS**

There are no financial implications arising from this report.

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