

*Status: Point in time view as at 01/12/2016.*

*Changes to legislation: Immigration Act 2016, SCHEDULE 5 is up to date with all changes known to be in force on or before 26 June 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)*

## SCHEDULES

### SCHEDULE 5 **U.K.**

Section 37

#### PRIVATE HIRE VEHICLES ETC

##### *London Hackney Carriages Act 1843 (c. 86)*

- 1 (1) Section 18 of the London Hackney Carriages Act 1843 (licences and badges to be delivered up on the discontinuance of licences) is amended as follows.
- (2) At the beginning insert “ (1) ”.
- (3) At the end of subsection (1) insert—
- “(2) Subsection (1) does not require the delivery of a licence and badge on the expiry of the licence if the licence was granted in accordance with section 8A(2) or (4) of the Metropolitan Public Carriage Act 1869 (but see section 8A(6) of that Act).”

#### Commencement Information

**I1** Sch. 5 para. 1 in force at 1.12.2016 by S.I. 2016/1037, reg. 5(i)

##### *Metropolitan Public Carriage Act 1869 (c. 115)*

- 2 The Metropolitan Public Carriage Act 1869 is amended as follows.

#### Commencement Information

**I2** Sch. 5 para. 2 in force at 1.12.2016 by S.I. 2016/1037, reg. 5(i)

- 3 In section 8(7) (driver's licence to be in force for three years unless suspended or revoked) for “A” substitute “ Subject to section 8A, a ”.

#### Commencement Information

**I3** Sch. 5 para. 3 in force at 1.12.2016 by S.I. 2016/1037, reg. 5(i)

- 4 After section 8 insert—

#### “8A Drivers' licences for persons subject to immigration control

- (1) Subsection (2) applies if—
- (a) a licence under section 8 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”),

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- (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) Transport for London must grant the licence for a period which ends at or before the end of the leave period.
- (3) Subsection (4) applies if—
- (a) a licence under section 8 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) Transport for London must grant the licence for a period that does not exceed six months.
- (5) A licence under section 8 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.
- (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 to Transport for London—
- (a) the licence,
  - (b) the person's copy of the licence (if any), and
  - (c) the person's driver's badge.
- (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 to Transport for London—
- (a) the licence,
  - (b) the person's copy of the licence (if any), and
  - (c) the person's driver's badge.
- (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.

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- (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.
- (12) For the purposes of this section a person is disqualified by reason of the person's immigration status from driving a hackney carriage 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 driving a hackney carriage.
- (13) 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 section 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.
- (14) 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.”

**Commencement Information**

**I4** Sch. 5 para. 4 in force at 1.12.2016 by S.I. 2016/1037, reg. 5(i) (with reg. 6)

*Plymouth City Council Act 1975 (c. xx)*

5 The Plymouth City Council Act 1975 is amended as follows.

**Commencement Information**

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

6 After section 2 insert—

**“2A Persons disqualified by reason of immigration status**

- (1) For the purposes 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—

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- (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 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.
- (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.

## **2B Immigration offences and immigration penalties**

- (1) In 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 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 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 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

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- (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 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 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
  - (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.”

#### Commencement Information

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

- 7 (1) Section 9 (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—
- “(1A) 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, the Council must have regard to any guidance issued by the Secretary of State.”

#### Commencement Information

**I7** Sch. 5 para. 7 in force at 1.12.2016 by S.I. 2016/1037, reg. 5(i) (with reg. 6)

- 8 In section 11(1) (drivers' licences for hackney carriages and private hire vehicles)—
- (a) in paragraph (a) for “Every” substitute “ Subject to section 11A, every ”, and
  - (b) in paragraph (b) after “1889,” insert “ but subject to section 11A, ”.

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#### Commencement Information

**18** Sch. 5 para. 8 in force at 1.12.2016 by S.I. 2016/1037, reg. 5(i) (with reg. 6)

9 After section 11 insert—

#### “11A Drivers' licences for persons subject to immigration control

- (1) Subsection (2) applies if—
  - (a) a licence within section 11(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 Council 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 11(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 Council 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 11(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 11(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 Council.
- (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 Council.
- (9) A person who, without reasonable excuse, contravenes subsection (7) or (8) is guilty of an offence and liable on summary conviction—

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- (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.
- (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.”

#### Commencement Information

**I9** Sch. 5 para. 9 in force at 1.12.2016 by S.I. 2016/1037, reg. 5(i) (with reg. 6)

- 10 (1) Section 13 (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, the Council must have regard to any guidance issued by the Secretary of State.”
- (4) In subsection (2) for “Every” substitute “ Subject to section 13A, every ”.

#### Commencement Information

**I10** Sch. 5 para. 10 in force at 1.12.2016 by S.I. 2016/1037, reg. 5(i) (with reg. 6)

- 11 After section 13 insert—

#### “13A Operators' licences for persons subject to immigration control

- (1) Subsection (2) applies if—
- (a) a licence under section 13 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

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- (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 Council 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 13 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 Council 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 13 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 Council.
- (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 Council.
- (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**

**III** Sch. 5 para. 11 in force at 1.12.2016 by S.I. 2016/1037, reg. 5(i) (with reg. 6)

- 12 (1) Section 17 (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—

“(1A) 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, the Council must have regard to any guidance issued by the Secretary of State.”

#### Commencement Information

**I12** Sch. 5 para. 12 in force at 1.12.2016 by S.I. 2016/1037, reg. 5(i) (with reg. 6)

- 13 (1) Section 19 (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—
- “(2A) The requirement in subsection (2)(a) to return a driver's badge does not apply in a case where section 20A applies (but see subsection (2) of that section).”

#### Commencement Information

**I13** Sch. 5 para. 13 in force at 1.12.2016 by S.I. 2016/1037, reg. 5(i) (with reg. 6)

- 14 (1) Section 20 (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**

**I14** Sch. 5 para. 14 in force at 1.12.2016 by S.I. 2016/1037, reg. 5(i) (with reg. 6)

15 After section 20 insert—

**“20A Return of licences suspended or revoked on immigration grounds**

- (1) Subsection (2) applies if—
  - (a) under section 19 the 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 20 the 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 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 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**

**I15** Sch. 5 para. 15 in force at 1.12.2016 by S.I. 2016/1037, reg. 5(i) (with reg. 6)

- 16 In section 37 (appeals) after subsection (2) insert—

“(3) On an appeal under 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**

**I16** Sch. 5 para. 16 in force at 1.12.2016 by S.I. 2016/1037, reg. 5(i) (with reg. 6)

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

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

**Commencement Information**

**I17** 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**

**I18** Sch. 5 para. 18 in force at 1.12.2016 by S.I. 2016/1037, reg. 5(i) (with reg. 6)

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- 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**

**I19** 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—

**“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.

*Status: Point in time view as at 01/12/2016.*

*Changes to legislation: Immigration Act 2016, SCHEDULE 5 is up to date with all changes known to be in force on or before 26 June 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)*

- (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.
- (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.”

#### Commencement Information

**I20** 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 ”.

#### Commencement Information

**I21** 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—

*Status: Point in time view as at 01/12/2016.*

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- (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.
- (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.

*Status: Point in time view as at 01/12/2016.*

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- (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**

**I22** 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)—
- (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.”

**Commencement Information**

**I23** 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).”

*Status: Point in time view as at 01/12/2016.*

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**Commencement Information**

**I24** 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—
- (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**

**I25** 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—



*Status: Point in time view as at 01/12/2016.*

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- (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.
- (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**

**I26** 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**

**I27** 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—

*Status: Point in time view as at 01/12/2016.*

*Changes to legislation: Immigration Act 2016, SCHEDULE 5 is up to date with all changes known to be in force on or before 26 June 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)*

- (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.
- (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

*Status: Point in time view as at 01/12/2016.*

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- (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
- (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.”

**Commencement Information**

**I28** Sch. 5 para. 28 in force at 1.12.2016 by S.I. 2016/1037, reg. 5(i) (with reg. 6)

*Civic Government (Scotland) Act 1982 (c. 45)*

29 The Civic Government (Scotland) Act 1982 is amended as follows.

**Commencement Information**

**I29** Sch. 5 para. 29 in force at 1.12.2016 by S.I. 2016/1037, reg. 5(i) (with reg. 6)

- 30 In section 13 (taxi and private hire car driving licences) after subsection (3) insert—
- “(3A) A licensing authority shall not grant a licence to any person under this section unless the authority is satisfied that the person is not disqualified by reason of the person's immigration status from driving a taxi or private hire car.
- (3B) Section 13A makes provision for the purposes of subsection (3A) about the circumstances in which a person is disqualified by reason of the person's immigration status from driving a taxi or private hire car.
- (3C) In determining for the purposes of subsection (3A) whether a person is disqualified by reason of the person's immigration status from driving a taxi or private hire car, a licensing authority must have regard to any guidance issued by the Secretary of State.”

**Commencement Information**

**I30** Sch. 5 para. 30 in force at 1.12.2016 by S.I. 2016/1037, reg. 5(i) (with reg. 6)

31 After section 13 insert—

**“13A Persons disqualified by reason of immigration status**

- (1) For the purposes of section 13(3A) a person is disqualified by reason of the person's immigration status from driving a taxi or private hire car if the person is subject to immigration control and—

*Status: Point in time view as at 01/12/2016.*

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- (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 driving a taxi or private hire car.
- (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 section 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.”

#### **Commencement Information**

**I31** Sch. 5 para. 31 in force at 1.12.2016 by S.I. 2016/1037, reg. 5(i) (with reg. 6)

- 32 (1) Schedule 1 (licensing - further provisions as to the general system) is amended as follows.
- (2) In paragraph 8 (duration of licences) in sub-paragraph (8) after “paragraphs” insert “8A and”.
- (3) After paragraph 8 insert—

*“Taxi etc driving licences for persons subject to immigration control*

- 8A (1) Sub-paragraph (2) applies if—
- (a) a taxi driver's licence or private hire car driver's licence 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 sub-paragraph (2), the period for which the licence would have had effect would have ended after the end of the leave period.
- (2) The licensing authority which grants the licence must specify a period in the licence as the period for which it has effect; and that period must end at or before the end of the leave period.
- (3) Sub-paragraph (4) applies if—
- (a) a taxi driver's licence or private hire car driver's licence 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

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- (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 licensing authority which grants the licence must specify a period in the licence as the period for which it has effect; and that period must not exceed six months.
- (5) A taxi driver's licence or private hire car driver's licence ceases to have effect if the person to whom it was granted becomes disqualified by reason of the person's immigration status from driving a taxi or private hire car.
- (6) Section 13A (persons disqualified by reason of immigration status) applies for the purposes of sub-paragraph (5) as it applies for the purposes of section 13(3A).
- (7) If a licence granted in accordance with sub-paragraph (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 licensing authority.
- (8) If sub-paragraph (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 the licence to the licensing authority which granted the licence.
- (9) A person who, without reasonable excuse, contravenes sub-paragraph (7) or (8) is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (10) This paragraph applies in relation to the renewal of a licence as it applies in relation to the grant of a licence.”
- (4) In paragraph 11 (suspension and revocation of licences) after sub-paragraph (2) insert—
  - “(2A) A licensing authority may order the suspension or revocation of a taxi driver's licence or a private hire car driver's licence if the holder of the licence has, since its grant, been convicted of an immigration offence or required to pay an immigration penalty (see paragraph 20).
  - (2B) Sub-paragraph (2A) does not apply if—
    - (a) in a case where the holder of the licence 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 holder of the licence 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.”
- (5) In paragraph 18 (appeals) after sub-paragraph (8) insert—
  - “(8A) On an appeal under this paragraph relating to a taxi driver's licence or a private hire car driver's licence, the sheriff is not entitled to entertain any question as to whether—

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- (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.”
- (6) After paragraph 19 insert—
  - “20 (1) In this Schedule “immigration offence” means an offence under any of the Immigration Acts.
  - (2) In this Schedule “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 Schedule 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 Schedule 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 Schedule 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 Schedule 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
    - (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.”

*Status: Point in time view as at 01/12/2016.*

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**Commencement Information**

**I32** Sch. 5 para. 32 in force at 1.12.2016 by S.I. 2016/1037, reg. 5(i)

*Road Traffic Offenders (Northern Ireland) Order 1996 (SI 1996/1320 (NI 10))*

33 (1) Part 1 of Schedule 1 to the Road Traffic Offenders (Northern Ireland) Order 1996 (SI 1996/1320 (NI 10)) is amended as follows.

(2) After the entry relating to section 1(3) of the Taxis Act (Northern Ireland) 2008 insert—

“Section 2A(8)	Failing to return an Summarily operator's licence	Level 3 on the standard scale”.
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(3) After the entry relating to section 22(6) of the Taxis Act (Northern Ireland) 2008 insert—

“Section 23A(8)	Failing to return an Summarily operator's licence	Level 3 on the standard scale”.
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**Commencement Information**

**I33** Sch. 5 para. 33 in force at 1.12.2016 by S.I. 2016/1037, reg. 5(i)

*Private Hire Vehicles (London) Act 1998 (c. 34)*

34 The Private Hire Vehicles (London) Act 1998 is amended as follows.

**Commencement Information**

**I34** Sch. 5 para. 34 in force at 1.12.2016 by S.I. 2016/1037, reg. 5(i) (with reg. 6)

35 In section 1(1) (meaning of “private hire vehicle” etc)—

(a) omit the “and” at the end of paragraph (a), and

(b) at the end of paragraph (b) insert “; and

(c) operate”, in relation to a private hire vehicle, means to make provision for the invitation or acceptance of, or to accept, private hire bookings in relation to the vehicle.”

**Commencement Information**

**I35** Sch. 5 para. 35 in force at 1.12.2016 by S.I. 2016/1037, reg. 5(i) (with reg. 6)

36 (1) Section 3 (London operator's licences) is amended as follows.

(2) In subsection (3) for the “and” at the end of paragraph (a) substitute—

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“(aa) if the applicant is an individual, the applicant is not disqualified by reason of the applicant's immigration status from operating a private hire vehicle; and”.

(3) After subsection (3) insert—

“(3A) In determining for the purposes of subsection (3) whether an applicant is disqualified by reason of the applicant's immigration status from operating a private hire vehicle, the licensing authority must have regard to any guidance issued by the Secretary of State.”

(4) In subsection (5) for “A” substitute “ Subject to section 3A, a ”.

**Commencement Information**

**I36** Sch. 5 para. 36 in force at 1.12.2016 by S.I. 2016/1037, reg. 5(i) (with reg. 6)

37 After section 3 insert—

**“3A London PHV operator's licences for persons subject to immigration control**

- (1) Subsection (2) applies if—
  - (a) a London PHV operator's licence 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 granted would have ended after the end of the leave period.
- (2) The licence must be granted for a period which ends at or before the end of the leave period.
- (3) Subsection (4) applies if—
  - (a) a London PHV operator's licence 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 licence must be granted for a period which does not exceed six months.
- (5) A London PHV operator's licence 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 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 licensing authority.



*Status: Point in time view as at 01/12/2016.*

*Changes to legislation: Immigration Act 2016, SCHEDULE 5 is up to date with all changes known to be in force on or before 26 June 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)*

- (7) A person who, without reasonable excuse, contravenes subsection (6) 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.
- (8) The Secretary of State may by regulations amend the amount for the time being specified in subsection (7)(b).”

**Commencement Information**

**I37** Sch. 5 para. 37 in force at 1.12.2016 by S.I. 2016/1037, reg. 5(i) (with reg. 6)

- 38 (1) Section 13 (London PHV driver's licences) is amended as follows.
- (2) In subsection (2) for the “and” at the end of paragraph (a) substitute—
- “(aa) the applicant is not disqualified by reason of the applicant's immigration status from driving a private hire vehicle; and”.
- (3) After subsection (2) insert—
- “(2A) In determining for the purposes of subsection (2) whether an applicant is disqualified by reason of the applicant's immigration status from driving a private hire vehicle, the licensing authority must have regard to any guidance issued by the Secretary of State.”
- (4) In subsection (5) at the beginning of paragraph (c) insert “ subject to section 13A, ”.

**Commencement Information**

**I38** Sch. 5 para. 38 in force at 1.12.2016 by S.I. 2016/1037, reg. 5(i) (with reg. 6)

- 39 After section 13 insert—

**“13A London PHV driver's licences for persons subject to immigration control**

- (1) Subsection (2) applies if—
- (a) a London PHV driver's licence 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 granted would have ended after the end of the leave period.
- (2) The licence must be granted for a period which ends at or before the end of the leave period.
- (3) Subsection (4) applies if—

*Status: Point in time view as at 01/12/2016.*

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- (a) a London PHV driver's licence 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 licence must be granted for a period which does not exceed six months.
- (5) A London PHV driver's licence 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) 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 the licence and the person's driver's badge to the licensing authority.
- (7) A person who, without reasonable excuse, contravenes subsection (6) 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.
- (8) The Secretary of State may by regulations amend the amount for the time being specified in subsection (7)(b).”

#### **Commencement Information**

**I39** Sch. 5 para. 39 in force at 1.12.2016 by S.I. 2016/1037, reg. 5(i) (with reg. 6)

- 40 (1) Section 16 (power to suspend or revoke licences) is amended as follows.
- (2) In subsection (2) before the “or” at the end of paragraph (a) insert—
- “(aa) the licence holder has, since the grant of the licence, been convicted of an immigration offence or required to pay an immigration penalty;”.
- (3) After subsection (2) insert—
- “(2A) Subsection (2)(aa) does not apply if—
- (a) in a case where the licence holder 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 licence holder 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) In subsection (4) at the end of paragraph (a) insert—

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

(5) After subsection (4) insert—

“(5) Subsection (4)(aa) does not apply if—

- (a) in a case where the licence holder 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 licence holder 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**

**I40** Sch. 5 para. 40 in force at 1.12.2016 by S.I. 2016/1037, reg. 5(i) (with reg. 6)

41 In section 25 (appeals) after subsection (7) insert—

- “(8) On an appeal under this Act to the magistrates' court or the Crown Court, 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**

**I41** Sch. 5 para. 41 in force at 1.12.2016 by S.I. 2016/1037, reg. 5(i) (with reg. 6)

42 (1) Section 32 (regulations) is amended as follows.

(2) In subsection (1) after “other than section” in the first place those words appear insert “ 3A(8), 13A(8) or ”.

(3) After subsection (2) insert—

“(2A) The power to make regulations conferred on the Secretary of State by section 3A(8) or 13A(8) is exercisable by statutory instrument.

(2B) A statutory instrument containing regulations under either of those sections may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.”

(4) In subsection (4) after “made under section” insert “ 3A(8), 13A(8) or ”.

**Commencement Information**

**I42** Sch. 5 para. 42 in force at 1.12.2016 by S.I. 2016/1037, reg. 5(i) (with reg. 6)

*Status: Point in time view as at 01/12/2016.*

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43           After section 35 insert—

**“35A Persons disqualified by reason of immigration status**

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

**35B Immigration offences and immigration penalties**

- (1) In 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 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 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

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- (b) the penalty is cancelled by virtue of section 16 or 17 of that Act.
- (4) For the purposes 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 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 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
  - (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.”

**Commencement Information**

**I43** Sch. 5 para. 43 in force at 1.12.2016 by S.I. 2016/1037, reg. 5(i) (with reg. 6)

44 In section 36 (interpretation) at the appropriate place insert—

““operate” has the meaning given in section 1(1);”.

**Commencement Information**

**I44** Sch. 5 para. 44 in force at 1.12.2016 by S.I. 2016/1037, reg. 5(i) (with reg. 6)

*Taxis Act (Northern Ireland) 2008 (c. 4)*

45 The Taxis Act (Northern Ireland) 2008 is amended as follows.

**Commencement Information**

**I45** Sch. 5 para. 45 in force at 1.12.2016 by S.I. 2016/1037, reg. 5(i) (with reg. 6)

46 (1) Section 2 (operator's licences) is amended as follows.

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- (2) In subsection (4) for the “and” at the end of paragraph (a) substitute—
- “(aa) if the applicant is an individual, the applicant is not disqualified by reason of the applicant's immigration status from operating a taxi service; and”.
- (3) After subsection (4) insert—
- “(4A) In determining for the purposes of subsection (4) whether an applicant is disqualified by reason of the applicant's immigration status from operating a taxi service, the Department must have regard to any guidance issued by the Secretary of State.”
- (4) In subsection (7) for “An” substitute “ Subject to section 2A, an ”.

**Commencement Information**

**I46** Sch. 5 para. 46 in force at 1.12.2016 by S.I. 2016/1037, reg. 5(i) (with reg. 6)

47 After section 2 insert—

**“2A Operator's licences for persons subject to immigration control**

- (1) Subsection (2) applies if—
- (a) an operator's licence 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 granted would have ended after the end of the leave period.
- (2) The licence must be granted for a period which ends at or before the end of the leave period.
- (3) Subsection (4) applies if—
- (a) an operator's licence 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 licence must be granted for a period which does not exceed six months.
- (5) An operator's licence 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 taxi service.
- (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 it to the Department.

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- (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 Department.
- (8) A person who, without reasonable excuse, contravenes subsection (6) or (7) is guilty of an offence.”

#### Commencement Information

**I47** Sch. 5 para. 47 in force at 1.12.2016 by S.I. 2016/1037, reg. 5(i) (with reg. 6)

- 48 (1) Section 23 (taxi driver's licences) is amended as follows.
- (2) In subsection (2) after paragraph (a) insert—
- “(aa) the applicant is not disqualified by reason of the applicant's immigration status from driving a taxi;”.
- (3) After subsection (2) insert—
- “(2A) In determining for the purposes of subsection (2) whether an applicant is disqualified by reason of the applicant's immigration status from driving a taxi, the Department must have regard to any guidance issued by the Secretary of State.”
- (4) In subsection (8) for “A” substitute “ Subject to section 23A, a ”.

#### Commencement Information

**I48** Sch. 5 para. 48 in force at 1.12.2016 by S.I. 2016/1037, reg. 5(i) (with reg. 6)

- 49 After section 23 insert—

#### “23A Taxi driver's licences for persons subject to immigration control

- (1) Subsection (2) applies if—
- (a) a taxi driver's licence 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 granted would have ended after the end of the leave period.
- (2) The licence must be granted for a period which ends at or before the end of the leave period.
- (3) Subsection (4) applies if—
- (a) a taxi driver's licence 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

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- (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 licence must be granted for a period which does not exceed six months.
- (5) A taxi driver's licence 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 taxi.
- (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 to the Department—
  - (a) the licence,
  - (b) the person's driver's badge, and
  - (c) any other evidence of identification which the Department has issued under section 24.
- (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 to the Department—
  - (a) the licence,
  - (b) the person's driver's badge, and
  - (c) any other evidence of identification which the Department has issued under section 24.
- (8) A person who, without reasonable excuse, contravenes subsection (6) or (7) is guilty of an offence.”

**Commencement Information**

**I49** Sch. 5 para. 49 in force at 1.12.2016 by S.I. 2016/1037, reg. 5(i) (with reg. 6)

- 50 (1) Section 26 (power to suspend, revoke or curtail licences) is amended as follows.
- (2) In subsection (2) before the “or” at the end of paragraph (a) insert—
- “(aa) the licence holder has, since the grant of the licence, been convicted of an immigration offence or required to pay an immigration penalty;”.
- (3) After subsection (2) insert—
- “(2A) Subsection (2)(aa) does not apply if—
- (a) in a case where the licence holder has been convicted of an immigration offence, the conviction is a spent conviction within the meaning of the Rehabilitation of Offenders (Northern Ireland) Order 1978 (SI 1978/1908 (NI 27)), or
  - (b) in a case where the licence holder 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.”



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- (4) In subsection (6) before the “or” at the end of paragraph (a) insert—
- “(aa) the licence holder has, since the grant of the licence, been convicted of an immigration offence or required to pay an immigration penalty;”.

- (5) After subsection (6) insert—

“(7) Subsection (6)(aa) does not apply if—

- (a) in a case where the licence holder has been convicted of an immigration offence, the conviction is a spent conviction within the meaning of the Rehabilitation of Offenders (Northern Ireland) Order 1978 (SI 1978/1908 (NI 27)), or
- (b) in a case where the licence holder 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**

**I50** Sch. 5 para. 50 in force at 1.12.2016 by S.I. 2016/1037, reg. 5(i) (with reg. 6)

- 51 In section 32 (return of licences etc) after subsection (5) insert—

“(5A) Subsection (4) does not apply if the licence was granted in accordance with section 2A(2) or (4) or 23A(2) or (4) (but see sections 2A(6) and 23A(6)).”

**Commencement Information**

**I51** Sch. 5 para. 51 in force at 1.12.2016 by S.I. 2016/1037, reg. 5(i) (with reg. 6)

- 52 In section 34 (appeals) after subsection (5) insert—

“(6) On any appeal, 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**

**I52** Sch. 5 para. 52 in force at 1.12.2016 by S.I. 2016/1037, reg. 5(i) (with reg. 6)

- 53 After section 56 insert—

**“56A Persons disqualified by reason of immigration status**

- (1) For the purposes 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—

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- (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 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.
- (4) For the purposes of this section a person carries on a licensable activity if the person—
- (a) operates a taxi service, or
  - (b) drives a taxi.

### **56B Immigration offences and immigration penalties**

- (1) In this Act “immigration offence” means—
- (a) an offence under any of the Immigration Acts,
  - (b) an offence under Article 3 of the Criminal Attempts and Conspiracy (Northern Ireland) Order 1983 (SI 1983/1120 (NI 13)) of attempting to commit an offence within paragraph (a), or
  - (c) an offence under Article 9 of that Order of conspiracy to commit an offence within paragraph (a).
- (2) In subsection (1)(a)—
- (a) “the Immigration Acts” has the meaning given by section 61(2) of the UK Borders Act 2007, and
  - (b) the reference to an offence under any of the Immigration Acts includes an offence under section 133(5) of the Criminal Justice and Immigration Act 2008 (breach of condition imposed on designated person).
- (3) In 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”).
- (4) For the purposes 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—

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- (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.
- (5) For the purposes 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.
- (6) For the purposes 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.
- (7) For the purposes 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
  - (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.”

#### **Commencement Information**

**I53** Sch. 5 para. 53 in force at 1.12.2016 by S.I. 2016/1037, reg. 5(i) (with reg. 6)

#### *Transitional provision*

- 54 (1) Subject to sub-paragraph (2), an amendment made by any of paragraphs 3, 4, 7 to 12, 18 to 23, 30, 32(2) and (3), 36 to 39 and 46 to 49 does not apply in relation to an application for a licence made before the coming into force of that paragraph or a licence granted in response to such an application.
- (2) Sub-paragraph (1) does not prevent an amendment made by any of those paragraphs from applying in relation to—
- (a) an application for the renewal of a licence where that licence was granted before the coming into force of that paragraph, or
  - (b) a licence renewed in response to such an application.

*Status: Point in time view as at 01/12/2016.*

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**Commencement Information**

**I54** Sch. 5 para. 54 in force at 1.12.2016 by S.I. 2016/1037, reg. 5(i)

- 55 (1) Subject to sub-paragraphs (2) and (3), an amendment made by any of paragraphs 13, 14, 24, 25, 32(4), 40 and 50 applies in relation to a licence granted before or after the coming into force of that paragraph.
- (2) An amendment made by any of those paragraphs applies in relation to a conviction for an immigration offence only if the person in question has been convicted of that offence after the coming into force of that paragraph in respect of the person's conduct after that time.
- (3) An amendment made by any of those paragraphs applies in relation to a requirement to pay an immigration penalty only if the person in question has been required to pay the penalty after the coming into force of that paragraph in respect of the person's conduct after that time.

**Commencement Information**

**I55** Sch. 5 para. 55 in force at 1.12.2016 by S.I. 2016/1037, reg. 5(i)

- 56 (1) Section 19(1) of the Plymouth City Council Act 1975 has effect in relation to the licence of a driver of a hackney carriage or private hire vehicle granted before the coming into force of paragraph 13 as if before the “or” at the end of paragraph (a) there were inserted—
- “(ab) in the case of a refusal to renew a licence, that he is disqualified by reason of his immigration status from driving a hackney carriage or a private hire vehicle;”.
- (2) Section 20A(1)(a) of that Act has effect in relation to such a licence as if after “subsection (1)(aa)” there were inserted “ or (ab) ”.
- (3) Section 20(1) of that Act has effect in relation to an operator's licence granted before the coming into force of paragraph 14 as if before the “or” at the end of paragraph (c) there were inserted—
- “(cb) in the case of a refusal to renew a licence, that the operator is disqualified by reason of the operator's immigration status from operating a private hire vehicle;”.
- (4) Section 20A(1)(b) of that Act has effect in relation to such a licence as if after “subsection (1)(ca)” there were inserted “ or (cb) ”.
- (5) Section 61(1) of the Local Government (Miscellaneous Provisions) Act 1976 has effect in relation to the licence of a driver of a hackney carriage or private hire vehicle granted before the coming into force of paragraph 24 as if before the “or” at the end of paragraph (a) there were inserted—
- “(ab) in the case of a refusal to renew a licence, that he is disqualified by reason of his immigration status from driving a hackney carriage or a private hire vehicle;”.
- (6) Section 62A(1)(a) of that Act has effect in relation to such a licence as if after “subsection (1)(aa)” there were inserted “ or (ab) ”.

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*Status: Point in time view as at 01/12/2016.*

*Changes to legislation: Immigration Act 2016, SCHEDULE 5 is up to date with all changes known to be in force on or before 26 June 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)*

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- (7) Section 62(1) of that Act has effect in relation to an operator's licence granted before the coming into force of paragraph 25 as if before the “or” at the end of paragraph (c) there were inserted—
- “(cb) in the case of a refusal to renew a licence, that the operator is disqualified by reason of the operator's immigration status from operating a private hire vehicle;”.
- (8) Section 62A(1)(b) of that Act has effect in relation to such a licence as if after “subsection (1)(ca)” there were inserted “ or (cb) ”.
- (9) Subsections (3A) to (3C) of section 13 of the Civic Government (Scotland) Act 1982 apply in relation to an application for the renewal of a taxi driver's or private hire car driver's licence granted before the coming into force of paragraph 30 as they apply in relation to an application for the grant of such a licence made after that time.

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**Commencement Information**

**I56** Sch. 5 para. 56 in force at 1.12.2016 by S.I. 2016/1037, reg. 5(i)

**Status:**

Point in time view as at 01/12/2016.

**Changes to legislation:**

Immigration Act 2016, SCHEDULE 5 is up to date with all changes known to be in force on or before 26 June 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.