

SCHEDULES

SCHEDULE 33

Section 125

LICENSING AUTHORITIES: REQUIREMENTS TO GIVE OR OBTAIN TAX INFORMATION

Meaning of “authorisation”, “authorised activity” and “licensing authority” etc

1 (1) In this Schedule—

- (a) “authorisation” means an authorisation mentioned in the first column of the table in sub-paragraph (2);
- (b) “authorised activity” means the activity authorised by an authorisation (described, for ease of reference, in the second column of the table);
- (c) “licensing authority” means the person who grants an authorisation (described, for ease of reference, in the third column of the table);
- (d) references to the “category” of an authorisation or authorised activity are to the category assigned to it in the fourth column of the table.

(2) Here is the table—

<i>Authorisation</i>	<i>Authorised activity</i>	<i>Licensing authority</i>	<i>Category</i>
A licence under section 46 of TPCA 1847	Driving a hackney carriage	The Commissioners (within the meaning of TPCA 1847)	1
A licence under section 8 of MPCA 1869	Driving a hackney carriage (London)	Transport for London	1
A licence under section 9 of PCCA 1975	Driving a private hire vehicle (Plymouth)	Plymouth City Council	1
A licence under section 51 of LG(MP)A 1976	Driving a private hire vehicle	A district council (within the meaning of Part 2 of LG(MP)A 1976)	1
A licence under section 13 of PHV(L)A 1998	Driving a private hire vehicle (London)	The licensing authority (within the meaning of PHV(L)A 1998)	1
A licence under section 13 of PCCA 1975	Operating a private hire vehicle (Plymouth)	Plymouth City Council	2

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<i>Authorisation</i>	<i>Authorised activity</i>	<i>Licensing authority</i>	<i>Category</i>
A licence under section 55 of LG(MP)A 1976	Operating a private hire vehicle	A district council (within the meaning of Part 2 of LG(MP)A 1976)	2
A licence under section 3 of PHV(L)A 1998	Operating a private hire vehicle (London)	The licensing authority (within the meaning of PHV(L)A 1998)	2
A site licence under SMDA 2013 (see section 2 of that Act)	Carrying on business as a scrap metal dealer at a site	A local authority (within the meaning of SMDA 2013)	3
A collector's licence under SMDA 2013 (see section 2 of that Act)	Carrying on business as a scrap metal dealer as a mobile collector	A local authority (within the meaning of SMDA 2013)	4

(3) In the table—

“LG(MP)A 1976” means the Local Government (Miscellaneous Provisions) Act 1976;

“MPCA 1869” means the Metropolitan Public Carriage Act 1869;

“PCCA 1975” means the Plymouth City Council Act 1975;

“PHV(L)A 1998” means the Private Hire Vehicles (London) Act 1998;

“SMDA 2013” means the Scrap Metal Dealers Act 2013;

“TPCA 1847” means the Town Police Clauses Act 1847.

First-time application: licensing authority required to give information about tax compliance

- 2 (1) Sub-paragraph (2) applies where—
- (a) an individual or company applies to a licensing authority for an authorisation, and
 - (b) the application is a first-time application.
- (2) The licensing authority may not consider the application until it has—
- (a) drawn the applicant's attention to such guidance relating to tax compliance as is for the time being specified for the purposes of this paragraph by the HMRC Commissioners,
 - (b) obtained confirmation from the applicant that the applicant is aware of the contents of that guidance, and
 - (c) drawn the applicant's attention to the powers of officers of HMRC to obtain information from the licensing authority about the applicant arising under—
 - (i) Schedule 36 to FA 2008 (information and inspection powers), and
 - (ii) Schedule 23 to FA 2011 (data-gathering powers).
- (3) For the purposes of this Schedule an application for an authorisation is a “first-time” application if the applicant—
- (a) has not previously been granted a relevant authorisation, or

- (b) has previously been granted a relevant authorisation, but no relevant authorisation has been in effect in relation to the person for a period of one year ending with the date on which the application is made.
- (4) For the purposes of sub-paragraph (3) an authorisation is “relevant” if—
- (a) it is the authorisation to which the application in question relates, or
 - (b) it is in the same category as that authorisation.

Renewed application: licensing authority required to obtain confirmation of tax check

- 3 (1) Sub-paragraph (2) applies where—
- (a) an individual or company applies to a licensing authority for an authorisation, and
 - (b) the application is not a first-time application.
- (2) The licensing authority may not consider the application unless it has—
- (a) requested confirmation from HMRC that the applicant has, within the required period, completed a tax check in relation to the authorised activity in question, and
 - (b) obtained that confirmation from HMRC.
- (3) Sub-paragraph (2) is subject to paragraph 6 (no requirement to confirm completion of tax check where HMRC in default).
- (4) For the purposes of this Schedule “the required period”, in relation to an application, means the period of 120 days ending with the day on which the request under sub-paragraph (2)(a) is made in relation to the application.

HMRC required to make arrangements in connection with tax checks

- 4 (1) HMRC must make arrangements (whether by means of a website or otherwise) for—
- (a) enabling tax checks to be undertaken by persons who have applied, or who propose to apply, for an authorisation, and
 - (b) enabling licensing authorities to make, and HMRC to respond to, requests under paragraph 3(2)(a) (requests for confirmation of completed tax check).
- (2) HMRC must make arrangements (whether by means of a website or otherwise) for enabling licensing authorities to confirm the availability during any period of arrangements made pursuant to sub-paragraph (1)(a).

Tax checks

- 5 (1) For the purposes of this Schedule a person undertakes a “tax check” in relation to an authorised activity by doing the following in accordance with arrangements made pursuant to paragraph 4(1)(a)—
- (a) giving HMRC such information as HMRC may reasonably request in order to be satisfied that the person has complied with any obligation of the person to give a notice of liability in respect of the relevant period,
 - (b) if the person has delivered a tax return to HMRC in respect of the relevant period, confirming to HMRC whether or not the return included information relating to relevant authorised activity income, and

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- (c) giving HMRC such information as HMRC may reasonably request in order to assess the effectiveness of this Schedule in improving the tax compliance of persons carrying on authorised activities.
- (2) The information that HMRC may request a person to give under sub-paragraph (1) (a) and (c) includes, in particular—
- (a) the person’s name and other information enabling the person to be identified (such as an individual’s or company’s Unique Taxpayer Reference, an individual’s date of birth or national insurance number, or a company’s registered number);
 - (b) the authorised activity in respect of which the person has applied, or proposes to apply, for authorisation (“the authorised activity”);
 - (c) information about the person’s existing or previous authorisations in respect of the authorised activity or authorised activities in the same category as that activity (such as length or date of expiry).
- (3) A tax check undertaken by a person in relation to an authorised activity—
- (a) is “initiated” on the earlier of—
 - (i) the first day on which HMRC receive any information in response to a request under sub-paragraph (1)(a) and (c), and
 - (ii) in a case in which the person is required to give the confirmation mentioned in sub-paragraph (1)(b), the day on which HMRC receive that confirmation;
 - (b) is “completed” on the day on which HMRC indicates to the person that they are satisfied that they have received—
 - (i) all of the information requested under sub-paragraph (1)(a) and (c), and
 - (ii) in a case in which the person is required to give the confirmation mentioned in sub-paragraph (1)(b), that confirmation.
- (4) In this paragraph—
- “notice of liability” means—
 - (a) a notice under section 7 of TMA 1970 (notice of liability to income tax), or
 - (b) a notice under paragraph 2 of Schedule 18 to FA 1998 (duty to give notice of chargeability to corporation tax);
 - “relevant authorised activity income” means income that arose from the authorised activity or an authorised activity in the same category as that activity;
 - “the relevant period” means—
 - (a) in relation to a notice of liability or tax return under TMA 1970, the most recent tax year to have ended 6 months or more before the day on which the tax check is initiated;
 - (b) in relation to a notice of liability or tax return under Schedule 18 to FA 1998, the most recent accounting period of the company to have ended 12 months or more before the day on which the tax check is initiated;
 - “tax return” means—
 - (a) a return required to be made under section 8 of TMA 1970 (personal return), or

- (b) a return required to be made under paragraph 3 of Schedule 18 to FA 1998 (company tax return).

Requirement to confirm completion of tax check ceases to apply if HMRC in default

- 6 (1) Paragraph 3(2) (requirement of licensing authority to request and receive confirmation that applicant has completed tax check before considering application) ceases to apply in relation to an application if either of the following conditions is met.
- (2) The first condition is that—
- (a) at any time after the application is made, the licensing authority requests the applicant to give it further information for the purpose of enabling it to make a request, or make a further request, under paragraph 3(2)(a) (request for confirmation of completed tax check) in relation to the application,
 - (b) the applicant notifies the licensing authority that arrangements made pursuant to paragraph 4(1)(a) (HMRC arrangements for enabling tax checks to be undertaken) were unavailable throughout—
 - (i) the period of 5 days beginning with the day on which the request under paragraph (a) was made, or
 - (ii) such later period of 5 days as the applicant specifies, and
 - (c) the licensing authority verifies, in accordance with arrangements made pursuant to paragraph 4(2), the information notified to the licensing authority under paragraph (b).
- (3) The second condition is that—
- (a) arrangements made pursuant to paragraph 4(1)(b) (HMRC arrangements for confirming tax check status) are unavailable throughout—
 - (i) the period of 5 days beginning with the day on which the licensing authority first attempts to make use of them for the purposes of the application, or
 - (ii) any later period of 5 days, and
 - (b) as a result, the licensing authority is prevented from making a request under paragraph 3(2)(a) (request for confirmation of completed tax check) in relation to the application that it would otherwise have made in that period.

Disclosure of information

- 7 (1) HMRC (or anyone acting on their behalf) may, for the purpose mentioned in sub-paragraph (2), disclose to a licensing authority (or anyone acting on their behalf) any confirmation or other information given to HMRC in the course of a tax check.
- (2) The purpose is to enable or assist the licensing authority or HMRC to comply with this Schedule.
- (3) A person who receives information as a result of this paragraph—
- (a) may use it only for the purpose of complying with this Schedule, and
 - (b) may not further disclose it without the consent of the HMRC Commissioners (which may be general or specific).
- (4) If—
- (a) a person discloses information in contravention of sub-paragraph (3)(b), and

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- (b) the information relates to a person whose identity is specified in, or can be deduced from, the disclosure,
- section 19 of CRCA 2005 (offence of wrongful disclosure) applies in relation to that disclosure as it applies in relation to a disclosure in contravention of section 20(9) of that Act.
- (5) Nothing in this paragraph authorises a disclosure of information if the disclosure would contravene the data protection legislation or is prohibited by the investigatory powers legislation (but in determining whether a disclosure would do either of those things, the power conferred by sub-paragraph (1) is to be taken into account).
- (6) In sub-paragraph (5)—
- “the data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act);
- “the investigatory powers legislation” means Parts 1 to 7 and Chapter 1 of Part 9 of the Investigatory Powers Act 2016.
- (7) Nothing in this section limits the circumstances in which information may be disclosed under section 18(2) of CRCA 2005 or under any other enactment or rule of law.

Regulations

- 8 (1) The HMRC Commissioners may by regulations make provision about—
- (a) the form or manner in which any information may or must be requested, or given, for the purposes of this Schedule;
 - (b) when any information is to be regarded for the purposes of this Schedule as having been requested, given or obtained;
 - (c) the retention or copying of any information obtained by a licensing authority (or anyone acting on its behalf) under this Schedule.
- (2) References in sub-paragraph (1) to information include—
- (a) the confirmation mentioned in paragraph 2(2)(b), 3(2) or 5(1)(b), and
 - (b) the indication mentioned in paragraph 5(3).
- (3) Regulations under sub-paragraph (1) may—
- (a) make provision which applies generally or only for specified cases or purposes;
 - (b) make different provision for different cases or purposes;
 - (c) include incidental, consequential, transitional or transitory provision;
 - (d) confer a discretion on HMRC.
- (4) The HMRC Commissioners may by regulations amend any of the following provisions by substituting a different number of days for that for the time being specified in it—
- (a) paragraph 3(4) (length of period after which tax check expires);
 - (b) sub-paragraphs (i) and (ii) of paragraph 6(2)(b) (length of period throughout which HMRC systems must be unavailable to applicant for waiver of requirement for tax check);
 - (c) sub-paragraphs (i) and (ii) of paragraph 6(3)(a) (length of period throughout which HMRC systems must be unavailable to licensing authority for waiver of requirement for tax check).

- (5) Regulations under this paragraph are to be made by statutory instrument.
- (6) A statutory instrument containing regulations under this paragraph is subject to annulment in pursuance of a resolution of the House of Commons.

Interpretation

- 9 In this Schedule—
- “authorisation” has the meaning given by paragraph 1;
 - “authorised activity” has the meaning given by paragraph 1;
 - “category”, in relation to an authorisation or authorised activity, has the meaning given by paragraph 1;
 - “company” has the same meaning as in the Corporation Tax Acts (see section 1121 of CTA 2010);
 - “completed”, in relation to a tax check, has the meaning given by paragraph 5(3);
 - “first-time”, in relation to an application for an authorisation, has the meaning given by paragraph 2(3);
 - “HMRC” means Her Majesty’s Revenue and Customs;
 - “HMRC Commissioners” means the Commissioners for Her Majesty’s Revenue and Customs;
 - “initiated”, in relation to a tax check, has the meaning given by paragraph 5(3);
 - “licensing authority” has the meaning given by paragraph 1;
 - “the required period”, in relation to an application for an authorisation, has the meaning given by paragraph 3(4);
 - “tax check” has the meaning given by paragraph 5(1);
 - “tax compliance” means compliance with obligations under the Tax Acts.

Partnerships

- 10 (1) A reference in this Schedule to an individual or company applying for an authorisation includes a reference to that individual or company applying, in their capacity as a partner in a partnership, for an authorisation of the partnership.
- (2) In relation to an application for an authorisation of the kind mentioned in subparagraph (1)—
- (a) the reference to the applicant in paragraph 2(3) (meaning of “first-time” application) is to the partnership;
 - (b) any other reference in this Schedule to the applicant is to the individual or company who makes the application.
- (3) In this paragraph—
- (a) “partnership” includes a limited liability partnership that is carrying on a business with a view to profit, and
 - (b) “partner” includes a member of such a body.

Consequential amendments

- 11 (1) In the Transport Act 1985, section 17 (London taxi driver licensing: appeals) is amended in accordance with sub-paragraphs (2) and (3).
- (2) In subsection (7) after “shall” insert “(subject to subsections (12) to (14))”.
- (3) After subsection (11) insert—
- “(12) Subsection (13) applies where—
- (a) the application mentioned in subsection (7) is an application for a licence under section 8 of the Metropolitan Public Carriage Act 1869 (taxi driver licences),
- (b) at any time after the application is made, the licensing authority requests the applicant to give it further information for the purpose of enabling it to make a request, or make a further request, under paragraph 3(2)(a) of Schedule 33 to the Finance Act 2021 (request for confirmation of completed tax check) in relation to the application, and
- (c) at the end of the relevant period, the licensing authority continues to be prevented from considering the application by virtue of paragraph 3(2) of that Schedule to that Act.
- (13) The existing licence mentioned in subsection (7) expires at the end of the relevant period.
- (14) In subsections (12) and (13) “the relevant period” means—
- (a) the period of 28 days beginning with the day on which the request under subsection (12)(b) is made, or
- (b) if the final day of that period is earlier than the day on which (disregarding subsections (7) and (13)) the existing licence mentioned in subsection (7) expires, the period ending with that later day.”
- (4) In the Scrap Metal Dealers Act 2013, in Schedule 1 (further provision about licences), paragraph 1 (term of licence) is amended in accordance with sub-paragraphs (5) and (6).
- (5) In sub-paragraph (2), after paragraph (a) insert—
- “(aa) if—
- (i) at any time after the application is made, the local authority requests the applicant to give it further information for the purpose of enabling it to make a request, or make a further request, under paragraph 3(2)(a) of Schedule 33 to the Finance Act 2021 (request for confirmation of completed tax check) in relation to the application, and
- (ii) at the end of the relevant period, the local authority continues to be prevented from considering the application by virtue of paragraph 3(2) of that Schedule to that Act,
- the licence expires at the end of that period;”.
- (6) After sub-paragraph (2) insert—
- “(2A) In sub-paragraph (2)(aa) “the relevant period” means—

- (a) the period of 28 days beginning with the day on which the request under sub-paragraph (2)(aa)(i) is made, or
- (b) if the final day of that period is earlier than the day on which (disregarding sub-paragraph (2)) the licence expires, the period ending with that later day.”