

Status: Point in time view as at 21/11/2016. This version of this cross heading contains provisions that are not valid for this point in time.

Changes to legislation: Immigration Act 2016, Cross Heading: Private Hire Vehicles (London) Act 1998 (c. 34) is up to date with all changes known to be in force on or before 29 August 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

VALID FROM 01/12/2016

SCHEDULE 5

PRIVATE HIRE VEHICLES ETC

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

- 34 The Private Hire Vehicles (London) Act 1998 is amended as follows.
- 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.”
- 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—
- “(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 ”.
- 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

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- (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.
- (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).”
- 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, ”.
- 39 After section 13 insert—

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“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—
 - (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).”

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;”.

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(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— “(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.”
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.”
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 ”.
43	After section 35 insert—

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“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.”

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

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

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