

Immigration Act 2016

Factsheet – Driving Licences (Sections 43 and 44)

What are we going to do?

- Make it harder for those with no right to be in the UK to live and work in the country illegally.

How are we going to do it?

- Prevent illegal migrants from retaining a UK driving licence.
- Introduce a new criminal offence of driving whilst illegally present in the UK, with powers to detain vehicles used in the commission of the offence.

Immigration Minister James Brokenshire said:

“Anyone who thinks the UK is a soft touch should be in no doubt — if you are here illegally, we are going to make it harder for you to stay.

“We will take action to stop you from working, renting a home, opening a bank account or driving a car.”

Background

- UK driving licences can be used as a form of identification which can help an individual access UK services, such as financial services and accommodation, which facilitate a settled life in the UK.
- The Immigration Act 2014 provided the power to revoke UK driving licences held by illegal migrants. More than 16,000 UK driving licences have so far been revoked on this basis. Foreign issued licences cannot be revoked by the UK Government.
- Immigration officers do not currently have the power to seize revoked UK licences that they encounter. It is the responsibility of the licence holder to return the revoked licence to the DVLA or DVA. Failure to do so is a criminal offence.
- The Immigration Act 2016 provides two new measures that build on the powers in the 2014 Act. It will:
 - Provide a power for police and immigration officers to search people and premises to seize the UK driving licences (whether revoked or not) of illegal migrants. This is to ensure that these licences are removed from circulation.
 - Create a new criminal offence of driving whilst unlawfully present in the UK, which will carry a custodial sentence of up to six months and/or a fine of up to the statutory maximum. The vehicle used may be detained and, upon conviction the court may order its forfeiture.

Key Questions and Answers

- **How will the new offence of driving whilst unlawfully present work in practice?**
This power will primarily be used by the police who, in the course of their work, may encounter people who are here illegally driving on UK roads. If a police officer stops a motorist for a driving offence, they can check the immigration status of that individual. If the individual is here illegally, the police officer will be able to search for and seize their UK driving licence, arrest them for the driving offence and detain the vehicle. If the migrant is convicted of the offence, the court may order forfeiture of that vehicle.
- **As the police already have similar powers in respect of vehicles, why are new powers necessary?**
The current powers would not apply to a person driving on a foreign licence, unless another power can be applied, e.g. the person has failed to insure the vehicle.
- **How will a police officer check an individual's immigration status when they are pulled over in their vehicle?**
The police will contact a specialist Home Office unit that deals with urgent police enquiries and operates 24 hours a day, seven days a week.
- **Will vehicles be detained where the driver is not the owner or registered keeper of the vehicle?**
A vehicle may be detained regardless of whether the driver who is, or is suspected of being, unlawfully present in the UK owns it or is the registered keeper. The person or company that owns, or is otherwise responsible for, the vehicle should take care to ensure that their vehicle is not being used by a person with no right to be in the UK.
- **What is the impact on motor insurance? Will innocent third parties involved in a collision with an illegal migrant driver be protected?**
Insurers have certain liabilities to innocent third parties, deriving from obligations under European law, that they cannot exclude from their insurance policies. This means that an innocent third party involved in a traffic collision with an illegal migrant driver will be entitled to make a claim on the illegal migrants' insurance policy even if that policy becomes void as a result of the migrant being unlawfully present in the UK.

Home Office

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