

**1 Licensing authorities: requirements to give or obtain tax information**

- (1) Schedule 1 contains provision requiring public authorities, before considering an application for an authorisation to which that Schedule applies –
  - (a) in the case of a first-time application, to give the applicant information relating to tax compliance, or
  - (b) in the case of any other application, to obtain from HMRC confirmation that the applicant has given HMRC information relating to tax compliance.
- (2) Schedule 1 has effect in relation to applications made on or after 4 April 2022.

## SCHEDULE 1

Section 1

## 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
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

<i>Authorisation</i>	<i>Authorised activity</i>	<i>Licensing authority</i>	<i>Category</i>
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.

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*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 –
- (a) it has 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) HMRC has given it that confirmation.
- (3) Sub-paragraph (2) is subject to paragraph 7 (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 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) responding to requests made by licensing authorities under paragraph 3(2)(a).

*Tax checks*

- 5 (1) For the purposes of this Schedule a person undertakes a “tax check” in relation to an authorised activity by giving HMRC, in accordance with arrangements made pursuant to paragraph 4(a), such information as HMRC may reasonably request in order to –
- (a) be satisfied that the person has complied with the person’s reporting obligations in connection with the authorised activity and authorised activities in the same category as that activity, or
  - (b) 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) 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);
  - (d) information about any relevant authorised activity income;

- (e) confirmation that, in the person's opinion, the person has complied with such of their reporting obligations in connection with any relevant authorised activity income as HMRC may specify.
- (3) A tax check undertaken by a person in relation to an authorised activity is completed on the day on which HMRC are first satisfied that they hold all of the information that they have requested the person to give under sub-paragraph (1).
- (4) In this paragraph "relevant authorised activity income" means income –
  - (a) that arose from the authorised activity or an authorised activity in the same category as that activity, and
  - (b) the receipt of which the person, or the person's employer, was required under any enactment, at any time before the information about it is requested under sub-paragraph (1), to have notified to HMRC.

*HMRC required to confirm to licensing authority whether tax check completed*

- 6 (1) Sub-paragraph (2) applies where a licensing authority, in accordance with arrangements made pursuant to paragraph 4(b), requests confirmation from HMRC that an applicant for an authorisation has, within the required period, completed a tax check in relation to the authorised activity in question.
- (2) HMRC must, before the end of the period of 3 days beginning with the day on which the request is made, give the licensing authority –
  - (a) the confirmation requested, or
  - (b) a notice specifying –
    - (i) that the confirmation requested is not being given, and
    - (ii) the reason why it is not being given.

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

- 7 (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 any of the following three conditions is met.
- (2) The first condition is that –
  - (a) the applicant notifies the licensing authority that the applicant has been unable to complete a tax check in accordance with arrangements made by HMRC pursuant to paragraph 4(a) for reasons that are beyond the applicant's control, and
  - (b) HMRC confirm to the licensing authority that, in the circumstances, the need for the applicant to complete a tax check is to be waived.
- (3) The second condition is that –
  - (a) arrangements made pursuant to paragraph 4(b) (HMRC arrangements for responding to requests for confirmation) are not available to the licensing authority throughout 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, and
  - (b) the reason that the arrangements are not so available is beyond the licensing authority's control.

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- (4) The third condition is that HMRC fail to respond to a request under paragraph 6 in relation to the applicant in accordance with that paragraph.

#### *Disclosure of information*

- 8 (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 information given to HMRC in response to a request under paragraph 5(1).
- (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 person discloses information in contravention of sub-paragraph (3)(b) which relates to a person whose identity –
- (a) is specified in the disclosure, or
  - (b) can be deduced from it,
- 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) This paragraph does not limit the circumstances in which information may be disclosed under section 18(2) of CRCA 2005 or under any other enactment or rule of law.
- (6) Sub-paragraph (1) does not authorise a disclosure of information which –
- (a) contravenes the data protection legislation, or
  - (b) is prohibited by any of Parts 1 to 7 or Chapter 1 of Part 9 of the Investigatory Powers Act 2016;
- (but in determining whether a disclosure falls within paragraph (a) or (b), the power in sub-paragraph (1) is to be taken into account.)
- (7) In this paragraph “the data protection legislation” has the same meaning as in the Data Protection Act 2018.

#### *Regulations*

- 9 (1) The HMRC Commissioners may by regulations make provision –
- (a) about the form or manner in which any information must or may be requested or given for the purposes of this Schedule;
  - (b) about when the confirmation mentioned in paragraph 3(2)(a) is to be regarded as having been requested or given for the purposes of this Schedule;
  - (c) about the retention or copying of any information given to a licensing authority (or anyone acting on its behalf) under this Schedule.
- (2) 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.
- (3) 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) (period after which tax check expires);
  - (b) paragraph 6(2) (HMRC’s window for responding to request for confirmation of completion of tax check);
  - (c) paragraph 7(3)(a) (period throughout which HMRC systems must be unavailable to enable waiver of requirement to complete tax check).
- (4) Regulations under this paragraph are to be made by statutory instrument.
- (5) A statutory instrument containing regulations under this paragraph is subject to annulment in pursuance of a resolution of the House of Commons.

### *Interpretation*

- 10 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;
  - “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;
  - “reporting obligation” means –
    - (a) an obligation under section 7 of the Taxes Management Act 1970 (notice of liability to income tax and capital gains tax) or section 8 of that Act (personal return), or
    - (b) an obligation under paragraph 2 of Schedule 18 to the Finance Act 1998 (duty to give notice of chargeability) or paragraph 3 of that Schedule (company tax return).

### *Partnerships*

- 11 (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 sub-paragraph (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*

- 12 (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 (9A) and (9B))”.
- (3) After subsection (9) insert –
 

“(9A) Subsection (9B) 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) the licensing authority has, pursuant to paragraph 3(2) of Schedule 1 to the Finance Act 2021, requested confirmation from HMRC that the applicant has completed a tax check, and
  - (c) at the end of the period of 28 days beginning with the day on which that request was made, the licensing authority continues to be prevented from considering the application by virtue of that provision of that Act.

(9B) The existing licence mentioned in subsection (7) expires at the end of the period mentioned in subsection (9A)(c).”
- (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-paragraph (5).
- (5) In sub-paragraph (2), after paragraph (a) insert –
 

“(aa) if the local authority –

  - (i) has, pursuant to paragraph 3(2) of Schedule 1 to the Finance Act 2021, requested confirmation from HMRC that the applicant has completed a tax check, and
  - (ii) at the end of the period of 28 days beginning with the day on which that request was made, continues to be prevented from considering the application by virtue of that provision of that Act,

the licence expires at the end of that period;”.