

Clause 1 and Schedule 1: Licensing authorities: requirements to give or obtain tax information

Summary

1. This clause and Schedule introduce conditionality for applications for licences to drive hackney carriages (taxis) and private hire vehicles (PHVs), to operate a PHV business or deal in scrap metal in England and Wales from 4 April 2022. Licensing bodies will have to signpost first-time applicants to HM Revenue and Customs (HMRC) guidance about their potential tax obligations. An applicant who is not a first-time applicant will have to carry out a tax check. The licensing body will have to obtain confirmation from HMRC that the applicant has completed the check before being able to consider their application.

Details of the clause

2. Subsection 1 introduces the Schedule, which provides for the actions licensing bodies must take before considering an application.
3. Subsection 2 provides for the Schedule to come into force on 4 April 2022.

Details of the Schedule

4. Paragraph 1 provides details of the licences subject to conditionality and explains the meaning of certain words appearing in the Schedule. Licences that are similar in nature but granted under different licensing Acts are grouped together in categories.
5. Paragraph 2 sets out the obligation to which licensing bodies are subject when dealing with first-time applications.
6. Sub-paragraph 1 explains that this paragraph applies to first-time applications from individuals and companies.
7. Sub-paragraph 2 sets out that, before considering the application, the licensing body must draw the applicant's attention to relevant guidance and legislation.
8. Sub-paragraphs 3 and 4 together define "first-time application". There are two grounds on which an application is a first-time application. The first is where the application is made by an individual or company who has previously held neither the kind of licence now being applied for nor a licence in the same category. The second is where an individual or company did hold such a licence but it ceased to have effect a year or more before the application is made.
9. Paragraph 3 provides that a licensing body may not consider a renewed application made by an individual or company, until it has received confirmation from HMRC that the applicant

has completed a tax check. The tax check must have been completed no more than 120 days before the licensing body requests the confirmation.

10. Paragraph 4 requires HMRC to put arrangements in place to enable applicants to carry out tax checks and for responding to requests made by licensing bodies regarding tax checks.
11. Paragraph 5 provides details of the nature and purpose of a tax check.
12. Sub-paragraph 1 provides that a tax check requires an applicant to provide any information which HMRC may reasonably require for the purpose of (a) being satisfied as to the person's compliance with reporting obligations (defined in paragraph 10) in relation to relevant activities and (b) assessing the effectiveness of the Schedule in improving the tax compliance (defined in paragraph 10) of those carrying on the licensed activities to which the Schedule applies.
13. Sub-paragraph 2 gives an inclusive list of examples of information which HMRC may ask an applicant to provide during a tax check. This includes information about any relevant authorised activity income.
14. Sub-paragraph 3 establishes when the tax check is taken to have been completed.
15. Sub-paragraph 4 defines "relevant authorized activity income".
16. Paragraph 6 obliges HMRC to respond, within 3 days, to a licensing body's request for confirmation that an applicant has completed a tax check. HMRC must either provide confirmation or state why it is not being given.
17. Paragraph 7 provides, as a safeguard for licensing bodies and applicants, that in certain scenarios a licensing body will be able to consider an application without first obtaining confirmation that the applicant has completed a tax check. This will apply in cases where the arrangements put in place by HMRC for carrying out and confirming completion of tax checks are unavailable and where HMRC fails to respond to a licensing body's request for confirmation in accordance with paragraph 6.
18. Paragraph 8 authorises HMRC to disclose to a licensing body information received from an applicant during the course of carrying out their tax check. The disclosure is authorised only so far as is necessary to enable HMRC or the licensing body to comply with the provisions of the Schedule. Limitations are placed on the licensing body's use and onward disclosure of the information.
19. Paragraph 9 gives HMRC the power to set out in regulations details about the following matters: how information should be requested or given under the Schedule; when confirmation should be treated as requested or obtained; and about the retention or copying by licensing bodies of information given to them by HMRC under the Schedule. HMRC may also use regulations to amend time limits set out in the Schedule.
20. Paragraph 10 gives the meaning of certain words and phrases used in the Schedule. In particular, a "reporting obligation" is defined as an obligation to notify liability or chargeability to tax or to deliver a return as required by sections 7 or 8 of the Taxes Management Act 1970 or paragraphs 2 or 3 of Schedule 18 to the Finance Act 1998. "Tax compliance" is defined as compliance with obligations under the Tax Acts. Schedule 1 to the

Interpretation Act 1978 defines “the Tax Acts”.

21. Paragraph 11 explains how tax conditionality applies to partnerships, including limited liability partnerships.
22. Sub-paragraph 1 provides that references in the Schedule to an individual or company making an application, include instances where that individual or company is a partner making an application on behalf of the partnership.
23. Sub-paragraph 2(a) explains how to determine whether an application made on behalf of the partnership by an individual or company acting as a partner in the partnership is a first-time application. For the purposes of paragraph 2(3) of the Schedule, the partnership should be regarded as the applicant. Accordingly, where the partnership has not previously held the kind of licence now being applied for or a licence in the same category, the application is a first-time application.
24. Sub-paragraph 2(b) explains how conditionality applies to a renewed application made on behalf of a partnership by a partner in the partnership (whether the partner is an individual or a company). In any part of the Schedule other than paragraph 2(3), “applicant” means the individual or company that is the partner. Accordingly, the licensing body must obtain from HMRC confirmation that the partner has completed a tax check, in accordance with paragraph 3(2), before considering the application.
25. Sub-paragraph 3 defines “partnership” and “partner” for the purposes of paragraph 11.
26. Paragraph 12 makes consequential amendments to section 17 of the Transport Act 1985 and paragraph 1 of Schedule 1 to the Scrap Metal Dealer’s Act 2013.
27. Sub-paragraphs 1 to 3 insert new subsections 9A and 9B after sub-section 17(9) of the Transport Act 1985 (“the 1985 Act”). Where an application to renew a licence granted under section 8 of the Metropolitan Public Carriage Act 1869 is made before the licence has expired, subsection 17(7) of the 1985 Act extends the licence’s duration. If an applicant refused to complete a tax check and so HMRC could not provide confirmation that they had completed one, the licensing body would be unable to consider the renewal application. An application that is not considered will ordinarily continue, unless it is withdrawn. These new subsections cause a licence that has been extended by subsection 17(7) of the 1985 Act to expire where the licensing body has been unable to obtain confirmation of completion of the tax check for 28 days. This ensures that an applicant who does not complete a tax check cannot continue trading indefinitely, relying on the extended licence as their authorisation.
28. Sub-paragraphs 4 and 5 insert new sub-paragraph 2(aa) after paragraph 1(2)(a) of Schedule 1 to the Scrap Metal Dealers Act 2013 (“the 2013 Act”). Where an application to renew a licence granted under section 2 of the 2013 Act is made before the licence has expired, paragraph 1 of Schedule 1 to the 2013 Act extends the licence’s duration. If an applicant refused to complete a tax check and so HMRC could not provide confirmation that they had completed one, the licensing body would be unable to consider the renewal application. An application that is not considered will continue unless and until it is withdrawn. This new sub-paragraph causes a licence that has been extended by paragraph 1 of Schedule 1 to the 2013 Act to expire where the licensing body has been unable to obtain confirmation of completion of the tax check for 28 days. This ensures that an applicant who does not complete a tax check cannot continue

trading indefinitely, relying on the extended licence as their authorisation.

Background note

29. The majority of UK taxpayers pay what they owe, but a small minority operate in the hidden economy. The term hidden economy refers to sources of taxable economic activity that are entirely hidden from HMRC.
30. Conditionality will address part of the hidden economy by helping applicants for certain public sector licences better understand their tax obligations and by making access to the licences they need to trade conditional on completing a tax check.
31. HMRC has conducted two public consultations on using conditionality to tackle the hidden economy in 2016 and 2017-2018.
32. If you have any questions about this change, or comments on the legislation, please contact ISBC Policy and Strategy (email: isbc.compliancepolicy@hmrc.gov.uk).

