

Changes to legislation: Immigration Act 2016, Cross Heading: Taxis Act (Northern Ireland) 2008 (c. 4) is up to date with all changes known to be in force on or before 23 July 2023. 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) View outstanding changes

SCHEDULES

SCHEDULE 5

PRIVATE HIRE VEHICLES ETC

Taxis Act (Northern Ireland) 2008 (c. 4)

45 The Taxis Act (Northern Ireland) 2008 is amended as follows.

Commencement Information

II Sch. 5 para. 45 in force at 1.12.2016 by S.I. 2016/1037, reg. 5(i) (with reg. 6)

46 (1) Section 2 (operator's licences) is amended as follows.

(2) In subsection (4) 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 taxi service; and”.

(3) After subsection (4) insert—

“(4A) In determining for the purposes of subsection (4) whether an applicant is disqualified by reason of the applicant's immigration status from operating a taxi service, the Department must have regard to any guidance issued by the Secretary of State.”

(4) In subsection (7) for “An” substitute “ Subject to section 2A, an ”.

Commencement Information

I2 Sch. 5 para. 46 in force at 1.12.2016 by S.I. 2016/1037, reg. 5(i) (with reg. 6)

47 After section 2 insert—

“2A Operator's licences for persons subject to immigration control

(1) Subsection (2) applies if—

- (a) an 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
- (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.

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- (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) an 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) An 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 taxi service.
- (6) If a licence granted in accordance with subsection (2) or (4) expires, the person to whom it was granted must, within the period of 7 days beginning with the day after that on which it expired, return it to the Department.
- (7) 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 Department.
- (8) A person who, without reasonable excuse, contravenes subsection (6) or (7) is guilty of an offence.”

Commencement Information

I3 Sch. 5 para. 47 in force at 1.12.2016 by S.I. 2016/1037, reg. 5(i) (with reg. 6)

- 48 (1) Section 23 (taxi driver's licences) is amended as follows.
- (2) In subsection (2) after paragraph (a) insert—
 - “(aa) the applicant is not disqualified by reason of the applicant's immigration status from driving a taxi;”.
 - (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 taxi, the Department must have regard to any guidance issued by the Secretary of State.”
 - (4) In subsection (8) for “A” substitute “ Subject to section 23A, a ”.

Commencement Information

I4 Sch. 5 para. 48 in force at 1.12.2016 by S.I. 2016/1037, reg. 5(i) (with reg. 6)

- 49 After section 23 insert—

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“23A Taxi driver's licences for persons subject to immigration control

- (1) Subsection (2) applies if—
 - (a) a taxi 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 taxi 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 taxi 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 taxi.
- (6) If a licence granted in accordance with subsection (2) or (4) expires, the person to whom it was granted must, within the period of 7 days beginning with the day after that on which it expired, return to the Department—
 - (a) the licence,
 - (b) the person's driver's badge, and
 - (c) any other evidence of identification which the Department has issued under section 24.
- (7) 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 to the Department—
 - (a) the licence,
 - (b) the person's driver's badge, and
 - (c) any other evidence of identification which the Department has issued under section 24.
- (8) A person who, without reasonable excuse, contravenes subsection (6) or (7) is guilty of an offence.”

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Commencement Information

I5 Sch. 5 para. 49 in force at 1.12.2016 by S.I. 2016/1037, reg. 5(i) (with reg. 6)

- 50 (1) Section 26 (power to suspend, revoke or curtail 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;”.
- (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 (Northern Ireland) Order 1978 (SI 1978/1908 (NI 27)), 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 (6) 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;”.
- (5) After subsection (6) insert—
- “(7) Subsection (6)(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 (Northern Ireland) Order 1978 (SI 1978/1908 (NI 27)), 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.”

Commencement Information

I6 Sch. 5 para. 50 in force at 1.12.2016 by S.I. 2016/1037, reg. 5(i) (with reg. 6)

- 51 In section 32 (return of licences etc) after subsection (5) insert—
- “(5A) Subsection (4) does not apply if the licence was granted in accordance with section 2A(2) or (4) or 23A(2) or (4) (but see sections 2A(6) and 23A(6)).”

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Commencement Information

I7 Sch. 5 para. 51 in force at 1.12.2016 by S.I. 2016/1037, reg. 5(i) (with reg. 6)

52 In section 34 (appeals) after subsection (5) insert—

“(6) On any appeal, 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.”

Commencement Information

I8 Sch. 5 para. 52 in force at 1.12.2016 by S.I. 2016/1037, reg. 5(i) (with reg. 6)

53 After section 56 insert—

“56A 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 Part 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 taxi service, or
- (b) drives a taxi.

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56B 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 Article 3 of the Criminal Attempts and Conspiracy (Northern Ireland) Order 1983 (SI 1983/1120 (NI 13)) of attempting to commit an offence within paragraph (a), or
 - (c) an offence under Article 9 of that Order of conspiracy to commit an offence within paragraph (a).
- (2) In subsection (1)(a)—
 - (a) “the Immigration Acts” has the meaning given by section 61(2) of the UK Borders Act 2007, and
 - (b) the reference to an offence under any of the Immigration Acts includes an offence under section 133(5) of the Criminal Justice and Immigration Act 2008 (breach of condition imposed on designated person).
- (3) 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”).
- (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 if—
 - (a) the person is excused payment by virtue of section 15(3) of that Act, or
 - (b) the penalty is cancelled by virtue of section 16 or 17 of that Act.
- (5) 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.
- (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 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.
- (7) 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—

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- (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.”

Commencement Information

I9 Sch. 5 para. 53 in force at 1.12.2016 by S.I. 2016/1037, **reg. 5(i)** (with **reg. 6**)

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Changes and effects yet to be applied to :

- specified provision(s) amendment to earlier commencing S.I. 2017/1241, Sch. by [S.I. 2018/31 reg. 2](#)