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**Changes to legislation:** Immigration Act 2016, Cross Heading: Civic Government (Scotland) Act 1982 (c. 45) is up to date with all changes known to be in force on or before 03 June 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) View outstanding changes

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## SCHEDULES

### SCHEDULE 5

#### PRIVATE HIRE VEHICLES ETC

##### *Civic Government (Scotland) Act 1982 (c. 45)*

29 The Civic Government (Scotland) Act 1982 is amended as follows.

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**Commencement Information**

**II** Sch. 5 para. 29 in force at 1.12.2016 by S.I. 2016/1037, reg. 5(i) (with reg. 6)

30 In section 13 (taxi and private hire car driving licences) after subsection (3) insert—

“(3A) A licensing authority shall not grant a licence to any person under this section unless the authority is satisfied that the person is not disqualified by reason of the person's immigration status from driving a taxi or private hire car.

(3B) Section 13A makes provision for the purposes of subsection (3A) about the circumstances in which a person is disqualified by reason of the person's immigration status from driving a taxi or private hire car.

(3C) In determining for the purposes of subsection (3A) whether a person is disqualified by reason of the person's immigration status from driving a taxi or private hire car, a licensing authority must have regard to any guidance issued by the Secretary of State.”

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**Commencement Information**

**I2** Sch. 5 para. 30 in force at 1.12.2016 by S.I. 2016/1037, reg. 5(i) (with reg. 6)

31 After section 13 insert—

**“13A Persons disqualified by reason of immigration status**

(1) For the purposes of section 13(3A) a person is disqualified by reason of the person's immigration status from driving a taxi or private hire car 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

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(iii) is subject to a condition preventing the person from driving a taxi or private hire car.

(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 section 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.”

**Commencement Information**

**I3** Sch. 5 para. 31 in force at 1.12.2016 by S.I. 2016/1037, reg. 5(i) (with reg. 6)

32 (1) Schedule 1 (licensing - further provisions as to the general system) is amended as follows.

(2) In paragraph 8 (duration of licences) in sub-paragraph (8) after “paragraphs” insert “8A and”.

(3) After paragraph 8 insert—

*“Taxi etc driving licences for persons subject to immigration control*

8A (1) Sub-paragraph (2) applies if—

- (a) a taxi driver's licence or private hire car 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 sub-paragraph (2), the period for which the licence would have had effect would have ended after the end of the leave period.

(2) The licensing authority which grants the licence must specify a period in the licence as the period for which it has effect; and that period must end at or before the end of the leave period.

(3) Sub-paragraph (4) applies if—

- (a) a taxi driver's licence or private hire car 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).

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- (4) The licensing authority which grants the licence must specify a period in the licence as the period for which it has effect; and that period must not exceed six months.
  - (5) A taxi driver's licence or private hire car driver's licence ceases to have effect if the person to whom it was granted becomes disqualified by reason of the person's immigration status from driving a taxi or private hire car.
  - (6) Section 13A (persons disqualified by reason of immigration status) applies for the purposes of sub-paragraph (5) as it applies for the purposes of section 13(3A).
  - (7) If a licence granted in accordance with sub-paragraph (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 the licence to the licensing authority.
  - (8) If sub-paragraph (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 to the licensing authority which granted the licence.
  - (9) A person who, without reasonable excuse, contravenes sub-paragraph (7) or (8) is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
  - (10) This paragraph applies in relation to the renewal of a licence as it applies in relation to the grant of a licence.”
- (4) In paragraph 11 (suspension and revocation of licences) after sub-paragraph (2) insert—
- “(2A) A licensing authority may order the suspension or revocation of a taxi driver's licence or a private hire car driver's licence if the holder of the licence has, since its grant, been convicted of an immigration offence or required to pay an immigration penalty (see paragraph 20).
- (2B) Sub-paragraph (2A) does not apply if—
- (a) in a case where the holder of the licence 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 holder of the licence 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.”
- (5) In paragraph 18 (appeals) after sub-paragraph (8) insert—
- “(8A) On an appeal under this paragraph relating to a taxi driver's licence or a private hire car driver's licence, the sheriff 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

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- (b) a person has, after the date of the decision being appealed against, been granted leave to enter or remain in the United Kingdom.”
- (6) After paragraph 19 insert—
- “20 (1) In this Schedule “immigration offence” means an offence under any of the Immigration Acts.
- (2) In this Schedule “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 Schedule 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.
- (4) For the purposes of this Schedule 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 Schedule 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 Schedule 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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**Commencement Information**

**I4** Sch. 5 para. 32 in force at 1.12.2016 by S.I. 2016/1037, reg. 5(i)

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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](#)

**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 69(9)(d) and word inserted by [2023 c. 37 s. 21\(2\)\(b\)](#)
- Sch. 10 para. 3(2)(eza) inserted by [2023 c. 37 s. 13\(3\)\(a\)](#)
- Sch. 10 para. 3(3A)-(3C) inserted by [2023 c. 37 s. 13\(3\)\(b\)](#)
- Sch. 10 para. 3A and cross-heading inserted by [2023 c. 37 s. 13\(4\)](#)