

## Drivers

### *Duration of Licences*

39. It is obviously important for safety reasons that drivers should be licensed. But it is not necessarily good practice to require licences to be renewed annually. That can impose an undue burden on drivers and licensing authorities alike. Three years is the legal maximum period and is in general the best approach. One argument against 3-year licences has been that a criminal offence may be committed, and not notified, during the duration of the licence. But this can of course also be the case during the duration of a shorter licence. In relation to this, authorities will wish to note that the Home Office in April 2006 issued revised guidance for police forces on the Notifiable Occupations Scheme. Under this new guidance the police are requested to notify the appropriate local licensing authority of convictions and other relevant information when it comes to their attention that an individual is working as a Taxi or PHV driver. (Further details are contained in Home Office Circular 6/2006. Further information can be obtained from the Criminal Records Section, Safeguarding Vulnerable Persons Team, Police Leadership and Powers Unit, Home Office, Fourth Floor, Peel Building, 2 Marsham Street, London SW1P 4DF; e-mail Robin.Manson@homeoffice.gsi.gov.uk)

40. However, an annual licence may be preferred by some drivers. That may be because they have plans to move to a different job or a different area, or because they cannot easily pay the fee for a three-year licence, if it is larger than the fee for an annual one. So it can be good practice to offer drivers the choice of an annual licence or a three-year licence.

### **Acceptance of driving licences from other EU member states**

41. Sections 51 and 59 of the Local Government (Miscellaneous Provisions) Act 1976 as enacted stated that an applicant for a taxi or private hire vehicle (PHV) driver's licence must have held a full ordinary GB driving licence for at least 12 months in order to be granted a taxi or PHV driver's licence. This requirement has subsequently been amended since the 1976 Act was passed. The Driving Licences (Community Driving Licence) Regulations 1996 (SI 1996 No 1974) amended sections 51 and 59 of the 1976 Act to allow full driving licences issued by EEA states to count towards the qualification requirements for the grant of taxi and PHV driver's licences. Since that time, a number of central and eastern European states have joined the EU and the EEA and the Department take the view that drivers from the Accession States are eligible to acquire a taxi or PHV driver's licence under the 1976 Act if they have held an ordinary driving licence for 12 months which was issued by an acceding State. To complete the picture, the Deregulation (Taxis and Private Hire Vehicles) Order 1998 (SI 1998 No 1946) gave equal recognition to Northern Ireland driving licences for the purposes of taxi and PHV driver licensing under the 1976 Act.

### **Criminal Record Checks**

42. A criminal record check is an important safety measure and is widely required. Taxi and PHV drivers can be subject to an Enhanced Disclosure through the Criminal Records Bureau; this level of disclosure includes details of spent convictions and police cautions. In considering an individual's criminal record, local licensing authorities will want to consider each case on its merits, but they will doubtless take a particularly cautious view of any offences involving violence, and especially sexual attack. In order to achieve consistency, and thus avoid the risk of successful legal challenge, local authorities will doubtless want to have a clear policy for the consideration of criminal records, for example the number of years they will require to have elapsed since the commission of particular kinds of offences before they will grant a licence.

43. Local licensing authorities will also want to have a policy on background checks for applicants from elsewhere in the EU and other overseas countries. One approach is to require a certificate of good conduct authenticated by the relevant embassy. The Criminal Records Bureau website ([www.crb.gov.uk](http://www.crb.gov.uk)) gives information about obtaining certificates of good conduct, or similar documents, from a number of countries. More generally, the Home Office's Employers' Helpline

(0845 010 6677) can be used by licensing staff to obtain general guidance on immigration documentation, although this Helpline is not able to advise on individual cases. The authority can obtain case specific immigration status information, including whether a licensing applicant is permitted to work or details of work restrictions, from the Evidence and Enquiry Unit, Floor 12, Lunar House, Wellesley Road, Croydon CR9 2BY . Further details on the procedures involved can be obtained by contacting the Unit (020 8196 3011).

44. It would seem best practice for Criminal Records Bureau disclosures to be sought when a licence is first applied for and then every three years, even if a licence is renewed annually, provided drivers are obliged to report all new convictions and cautions to the licensing authority.

#### **Medical Criteria**

45. It is clearly good practice for medical checks to be made on each driver before the initial grant of a licence and thereafter for each renewal. It is common for licensing authorities to apply the 'Group 2' medical standards - applied by DVLA to the licensing of lorry and bus drivers - to taxi and PHV drivers. This seems best practice. The Group 2 standards preclude the licensing of drivers with insulin treated diabetes. However, exceptional arrangements do exist for drivers with insulin treated diabetes, who can meet a series of medical criteria, to obtain a licence to drive category C1 vehicles (i.e. 3500-7500 kgs lorries); the position is summarised at Annex B to the Guidance. In the light of the latest guidance from the Secretary of State's Honorary Medical Advisory Panel on Diabetes Mellitus and Driving, it is suggested that best practice is to apply the C1 standards to taxi and PHV drivers with insulin treated diabetes.

#### **Age Limits**

46. It does not seem necessary to set a maximum age limit for drivers provided that regular medical checks are made. Nor do minimum age limits, beyond the statutory periods for holding a full driver licence, seem appropriate. Applicants should be assessed on their merits.

**Guidance On Importance of obtaining evidence that potential employees are legally permitted to work in the UK.**

**IMPORTANT**

**Document Checks to be made on every new employee**

Section 8 of the Asylum and Immigration Act 1996 requires all employers in the UK to make basic document checks on **every person** they intend to employ.

As of 1<sup>st</sup> May 2004, the Government will introduce changes to the types of document which will need to be checked to avoid employing people who are not legally permitted to work in the UK

**IT IS IMPORTANT THAT** : Steps 1-3 be followed for **every new employee** who you may be considering employing from 1<sup>st</sup> May onwards.

By following these steps you will be ensuring that as an Authority our recruitment practices comply with the new requirements for establishing a defence, and will not be prosecuted for employing a person illegally. At present, the current penalty for employing illegal workers is £5,000.

**Step 1**

You should ask potential employees to provide:

- **One** of the **original** documents included in **List 1**

**or**

- **Two** of the original documents in the combinations given in **List 2**

Potential employees do not have to produce documents from both **List 1** and **List 2**.

**Step 2**

Carry out the following **reasonable** steps when checking documents.

- Check any photographs to ensure that you are satisfied they are consistent with the appearance of your potential employee.
- Check that dates of birth are consistent with the appearance of your potential employee.
- Check expiry dates have not passed
- Check for any UK Government stamps or endorsements
- If potential employee gives you two documents from **List 2** which have different names, request further documents to explain reason.

**Step 3**

Make a photocopy of the following parts of all documents:

- Front cover and all pages which give personal details especially page with photographs and signature.
- Any page containing UK Government stamps or endorsements.

**It is important that you keep a record of every document you have copied.**

**List 1**

Documents which Provide Defence if Produced Alone

Any one of the documents included below in List 1 will provide you with the defence if you check and copy them.

- A passport showing that the holder is a British Citizen, or has a right of abode in the United Kingdom.
- A document showing that the holder is a national of a European Economic Area country (listed on pages 13-14) or Switzerland. This must be a national passport or national identity card.
- A residence permit issued by the United Kingdom to a national from a European Economic Area country or Switzerland.
- A passport or other document issued by the Home Office which has an endorsement stating that the holder has a current right of residence in the United Kingdom as the family member of a national from a European Economic Area country or Switzerland.
- A passport or other travel document endorsed to show that the holder can stay indefinitely in the United Kingdom, or has no time limit on their stay.
- A passport or other travel document endorsed to show that the holder can stay in the United Kingdom; and that this endorsement allows the holder to do the type of work you are offering if they do not have a work permit.
- An Application Registration Card issued by the Home Office to an asylum seeker stating that the holder is permitted to take employment.

Once you have checked one of these documents from your potential employee, there is no need to ask for any further documents from **List 2**.

## List 2

### Documents which Provide the Defence if Produced in Combination

List 2 covers the combinations of documents which will provide you with the defence. Once you have done this, you do not need to ask for any further documents contained in **List 1**.

You **will not** have the defence if you see one document from the first combination and one from the second combination.

#### First Combination

- a) A document giving the persons permanent National Insurance Number and name. This could be a P45, P60, National Insurance card, or a letter from a Government agency.

**Along with checking and copying a document giving the persons National Insurance Number, you must also check and copy only one of the following documents listed in sections B-H:**

- b) A full birth certificate issued in the United Kingdom, which includes the names of the holders parents; **OR**
- c) A birth certificate issued in the Channel Islands, the Isle of Man or Ireland; **OR**
- d) A certificate of registration or naturalisation stating that the holder is a British Citizen; **OR**
- e) A letter issued by the Home Office which indicates that the person named in it can stay indefinitely in the United Kingdom, or has no time limit on their stay; **OR**
- f) An Immigration Status Document issued by the Home Office with an endorsement indicating that the person named in it can stay indefinitely in the United Kingdom, or has no time limit on their stay; **OR**
- g) A letter issued by the Home Office which indicates that the person named in it can stay in the United Kingdom; and this allows them to do the type of work you are offering; **OR**
- h) An Immigration Status Document issued by the Home Office with an endorsement indicated that the person named in it can stay in the United Kingdom; and this allows them to do the type of work you are offering.

#### Second Combination

- a) A work permit or other approval to take employment that has been issued by Works Permit UK.

**Along with a document issued by Works Permits UK, you should also see, check and copy one of the following documents listed B-C:**

- b) A passport or other travel document endorsed to show that the holder is able to stay in the United Kingdom and can take the work permit employment in question; **OR**
- c) A letter issued by the Home Office confirming that the person named in it is able to stay in the United Kingdom and can take the work permit employment in question.

All of the documents contained in both List 1 and List 2 do not have the precise wording contained in the law. If you would like to obtain a full legal description of the changes, this will be available in the booklet the Home Office will be producing alongside this guidance.

### **Documents that will no longer provide you with part of your defence**

There may be some documents that you routinely check at present to establish the defence which will be removed entirely from both **List 1** and **List 2** when the changes come into force. You should no longer check for the following documents from 1st May 2004.

- A Home Office Standard Acknowledgement Letter or Immigration Service Letter (IS96W) which states that an asylum seeker can work in the United Kingdom. If you are presented with these documents then you should advise the applicant to call the Home Office on 0151 237 6375 for information about how they can apply for an Application Registration Card;
- A letter issued by the Home Office stating the holder is a British Citizen;
- A passport describing the holder as a British Dependant Territories Citizen which states that the holder has a connection with Gibraltar;
- A short birth certificate issued in the United Kingdom which does not have details of the holder's parents.
- A card or certificate issued by the Inland Revenue under the Construction Industry Scheme.

The following documents **have never been acceptable** as proof of a persons right to work in the United Kingdom, and should not form part of your checks under Section 8:

- A temporary National Insurance Number beginning with TN, or any number which ends with the letters from E to Z inclusive;
- A driving licence issued by the Driver and Vehicle Licensing Agency;
- A bill issued by a financial institution or a utility company.