

CIVIC GOVERNMENT (SCOTLAND) ACT 1982

Licensing of Booking Offices

Notes of Guidance for Applicants for a Licence for a Taxi/PHC Booking Office

The following notes are a brief outline of the requirements for a **Booking Office** Licensing under the above Legislation. They should be treated as guidelines only and not an authoritative statement of law. They do not purport to be more than a guide to the main provisions of the Act in order that would be applicants may consider if they need to apply for a Licence. Applicants are recommended to study the relevant provisions of the Act and obtain any further advice from their Solicitor.

1 INTRODUCTION

From 16th November 2009 all premises used as taxi and private hire car booking offices where the number of relevant vehicles, in respect of which bookings are taken, exceeds 3 require to be licensed

2 DEFINITIONS

The definition of booking office is the use of premises for the carrying on of a business which consists to any extent of the taking of bookings, by any means of communication, from members of the public for the hire of a relevant vehicle.

3. TRANSITIONAL PROVISIONS

Persons who are currently operating a booking office, and who apply for a licence before 16th November 2009, will be permitted to carry on their existing business while their application is being processed i.e. until their application has been granted, withdrawn or, if refused, until any appeal has been disposed of.

4. CONDITIONS

Licence holders will be required to comply with the mandatory conditions specified in the legislation. These are detailed below:

- The licence holder must keep a record of every booking for the hire of a licensed vehicle taken at the premises licensed.
- The licence holder must keep a record of the registration number of the vehicle which was hired as the result of a booking taken at the licensed premises together with the name of its driver at the time of the hire.
- The Licence holder shall take all reasonable steps to ensure that any booking taken at the licensed premises from a member of the public for the hire of a relevant vehicle results in the hire of a vehicle which is:
 - (i) a relevant vehicle; and
 - (ii) being driven by a person who holds a licence granted under section 13 of the Act and that licence is in effect.

5. COMPLETION OF APPLICATION FORM

Application forms are available from the Licensing Office based at John Muir House or from the Council's Website at www.eastlothian.gov.uk

The licence may be applied for in the name of a firm or company (i.e. non-natural person) or in the name of an individual. Please therefore answer Question 1 or 2 on the form as appropriate. **ALL** other questions on the form should be answered.

You should take care in completing the application form to list, subject to the terms of the Rehabilitation of Offenders Act 1974, all convictions against you/persons named in your application. If you are in doubt as to whether or not to list a conviction you should seek independent advice on this matter.

In order to apply for a licence, the application form should be returned along with the following:-

- the application fee of £150.00
- A copy of your public liability insurance certificate (if applicable)

6. APPLICATION FEES

Licences will normally be granted for a period of 3 years. The application fee for the grant or renewal of a licence for this activity is £150.00.

7. DISPLAY OF PUBLIC NOTICE

Upon submitting your application to the Council you are required to display a PUBLIC NOTICE on the premises for a continuous period of TWENTY ONE DAYS from the date of submission of your application. A Public Notice is attached to these notes.

Where the application has been made by or on behalf of a company or partnership (ie. a non-natural person) the address of the registered or principal office and the names of and the private addresses of the directors, partners or others responsible for its management should also be stated on the Public Notice. You should attempt to keep the Notice on display for a period of at least 21 DAYS and try and ensure that it does not become defaced or destroyed during that period, replacing the Notice if necessary.

When the required Notice has been displayed in accordance with the legislation, you should, on expiry of the 21 DAYS, complete and sign the Certificate of Compliance and send it to the office you submitted the application form to. (Copy Certificate is enclosed).

8. DETERMINATION OF AND DURATION OF LICENCES

- (i) **Full licences:** a licence will normally be issued after the elapse of 21 days from receipt of an application. In certain circumstances, e.g. where objections have been received, applications can take considerably longer to be determined. A Licence shall remain in force, unless previously suspended or revoked, for a period of 3 years from the date when it comes into force, or such shorter period as the licensing authority thinks fit. The Licence is not normally transferable.

- (ii) **Temporary Licences:** application may be made for a temporary licence which on being granted by the licensing authority may have effect for a period not exceeding 6 weeks. A temporary licence is not capable of being renewed, but where application has also been made for a full licence for the same activity, the temporary licence, if granted, shall continue to have effect until the application for the full licence has been determined. Temporary licences may be granted earlier than the 21 day period specified for a full licence and the fee for a temporary licence is half of the full application fee.

Your application must be considered within 3 months of it being lodged and the Council must reach a decision on it within 6 months.

10. LICENCE TO BE RETAINED

The Licence must not be altered, erased or defaced in any way, must be kept clean and legible and must not be lent to or used by any other person. Should the Licence be lost or become defaced or illegible the Licence holder shall obtain a replacement from the licensing authority on payment of the appropriate fee as detailed in the attached list of fees. The Licence holder shall produce his/her Licence within five days of being requested to do so by a Police Constable or an authorised Officer of the licensing authority or the fire authority.

11. RETURN OF LICENCE

The Licence shall be delivered to the licensing authority:-

- (a) if the premises cease to be used as a booking office;
- (b) within seven days of receiving notice of the coming into effect of a decision of the licensing authority to suspend or vary the terms of the Licence, or the decision of a Court to revoke it.

12 NOTIFICATION OF MATERIAL CHANGE OF CIRCUMSTANCES

The Licence holder shall notify the Council as soon as is reasonably practicable with any **convictions or other material change** in circumstances affecting him/her or the activity to which the Licence relates, including any particulars referred to in the application for grant, or latest application for renewal, of the Licence. **If in doubt, notify the Council of any changes.**

13 NOTIFICATION OF MATERIAL ALTERATIONS

The Licence holder shall not make or permit to be made any material change to the premises without the prior **written** consent of the licensing authority unless in accordance with a requirement imposed by or in pursuance of any enactment other than parts I or II of the Civic Government (Scotland) Act 1982. **If in doubt as to whether consent is required, contact the Council.**

14 PRIOR REFUSAL

If refused, you cannot apply for the same kind of licence in respect of the same activity or for the same premises, within one year of that refusal unless there has been a material change in circumstances.

15 HEARINGS

Occasionally, and always if there is an objection to the granting of a Licence, a Hearing of the Licensing Sub Committee of the Council will be held to decide whether or not a Licence should be granted. If the application is to be referred to a Hearing you will be invited to attend and notified in writing of the date, time and venue. A further appeal lies to the Sheriff Court.

16 OFFENCES

The following are criminal offences liable, on summary conviction, to a fine:-

- (a) Carrying on an activity for which a Licence under the Civic Government (Scotland) Act 1982 is required without such a Licence;
- (b) Failing to comply with a Condition of a Licence;
- (c) Failing to notify the Council of a material change in the circumstances of a Licensee;
- (d) Failing to obtain the consent of the Council before making any material change to any premises, vehicle or vessel to which the Licence relates;
- (e) Failing to surrender the Licence (1) after it has been superseded or (2) when the Licensee has given up the activity to which it relates;
- (f) Failing to disclose convictions in the Application Form;
- (g) Making a false statement when filling in the Application Form.

The above list is not exhaustive and reference should be made to the Civic Government (Scotland) Act 1982 for all offences under the Act.