
STATUTORY INSTRUMENTS

2017 No. 1317

**IMMIGRATION, SCOTLAND
LICENCES AND LICENSING, SCOTLAND**

**The Immigration Act 2016 (Consequential Amendments)
(Licensing of Booking Offices: Scotland) Regulations 2017**

<i>Made</i>	- - - -	<i>19th December 2017</i>
<i>Laid before Parliament</i>		<i>20th December 2017</i>
<i>Coming into force</i>	- -	<i>22nd January 2018</i>

The Secretary of State makes the following Regulations in exercise of the powers conferred by section 92(2) of the Immigration Act 2016⁽¹⁾.

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Immigration Act 2016 (Consequential Amendments) (Licensing of Booking Offices: Scotland) Regulations 2017 and come into force on 22nd January 2018.

(2) These Regulations extend to Scotland only.

Interpretation

2. In these Regulations—

“the 2009 Order” means the Civic Government (Scotland) Act 1982 (Licensing of Booking Offices) Order 2009⁽²⁾;

“the Act” means the Civic Government (Scotland) Act 1982⁽³⁾;

“booking office licence” means a licence for an activity designated as an activity for which a licence is required under Part I of the Act by article 2 of the 2009 Order.

Amendments to the Civic Government (Scotland) Act 1982 (Licensing of Booking Offices) Order 2009

3. The 2009 Order is amended as follows.

(1) 2016 c. 19.
(2) S.S.I. 2009/145.
(3) 1982 c. 45.

4. In Article 1, paragraph (2), at the appropriate place insert—
 ““booking office licence” means a licence for an activity designated under Article 2;”.
5. After Article 3 (application of Part I of the Act) insert—

“Booking office licences for persons subject to immigration control

3A.—(1) This article applies to a licence for the activity designated by article 2.

(2) A licensing authority shall not grant a licence to a person, or renew a person’s licence in respect of the activity designated by article 2 unless the authority is satisfied that the person is not disqualified by reason of the person’s immigration status from holding a booking office licence.

(3) For the purposes of paragraph (2) a person is disqualified by reason of the person’s immigration status from holding a booking office licence 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 holding a booking office licence.

(4) In determining for the purposes of paragraph (2) whether a person is disqualified by reason of the person’s immigration status from holding a booking office licence, a licensing authority must have regard to any guidance issued by the Secretary of State.

(5) 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.

(6) For the purposes of this article 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.”.

6. In the Schedule (application of Part I of the Act)—

(a) after paragraph 3 insert—

“3A. In paragraph 8A (taxi etc driving licences for persons subject to immigration control)(4) of Schedule 1—

- (a) in sub-paragraph (1)(a) after “private hire car driver’s licence” insert “or booking office licence”;
- (b) in sub-paragraph (3)(a) after “private hire car driver’s licence” insert “or booking office licence”;
- (c) after sub-paragraph (5) insert—

(4) Paragraph 8A of Schedule 1 to the Civic Government (Scotland) Act 1982 (c. 45) (“the 1982 Act”) was inserted by paragraphs 29 and 32 (1) and (3) of Schedule 5 to the Immigration Act 2016 (“the 2016 Act”).

“(5A) A booking office licence ceases to have effect if the person to whom it was granted becomes disqualified by reason of the person’s immigration status from holding a booking office licence.”

3B. In paragraph 11 (suspension and revocation of licences)(5) of Schedule 1, in sub-paragraph (2A) after “private hire car driver’s licence” insert “or a booking office licence”.

3C. In paragraph 18 (appeals) of Schedule 1, in sub-paragraph (8A)(6) after “private hire car driver’s licence” insert “or a booking office licence”.”;

(b) for paragraph 4 substitute—

“4. After paragraph 20(7) of Schedule 1 insert—

“21.—(1) In this Schedule—

(a) “booking office licence” means a licence for an activity designated as an activity for which a licence under Part I of the Act is required by article 2(1) of the 2009 Order, and

(b) “relevant premises” and “relevant vehicle” have the same meaning as in the 2009 Order.

(2) In this paragraph “the 2009 Order” means the Civic Government (Scotland) Act 1982 (Licensing of Booking Offices) Order 2009.”.”

Transitional provisions

7.—(1) An amendment made to the 2009 Order by regulation 4 or 5 does not apply in relation to an application for the grant or renewal of a booking office licence made before the coming into force of that regulation.

(2) Subject to paragraphs (3) and (4), the amendments to the 2009 Order made by these Regulations do not apply in relation to a booking office licence if the application to the licensing authority as a result of which that licence was granted or renewed was made before the coming into force of these Regulations.

(3) An amendment made by regulation 5(a) applies in relation to a conviction for an immigration offence only if the conduct which constitutes the offence occurred after the coming into force date of that regulation.

(4) An amendment made by regulation 5(a) applies in relation to a requirement to pay an immigration penalty only if the conduct which resulted in the penalty becoming payable occurred after the coming into force date of that regulation.

Brandon Lewis
Minister of State
Home Office

19th December 2017

(5) Paragraph 11 of Schedule 1 to the 1982 Act was amended by section 78(1) and (3)(b) of the Air Weapons and Licensing (Scotland) Act 2015 (2015 asp 10) (“the 2015 Act”) and sub-paragraph (2A) was inserted by paragraphs 29 and 32(1) and (4) of Schedule 5 to the 2016 Act.

(6) Paragraph 18 of Schedule 1 to the 1982 Act was amended by section 78(1) and (3)(g) of the 2015 Act and sub-paragraph (8A) was inserted by paragraphs 29 and 32(1) of Schedule 5 to the 2016 Act.

(7) Paragraph 20 of Schedule 1 to the 1982 Act was inserted by paragraphs 29 and 32(1) and (6) of Schedule 5 to the 2016 Act.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Regulations)

The Civic Government (Scotland) Act 1982 (Licensing of Booking Offices) Order 2009 (S.S.I. 2009/145) (“the 2009 Order”) designates the use of premises for the carrying on of a business, part of which consists of taking bookings from members of the public for the hire of taxis or private hire cars, as an activity for which a licence is required under the Civic Government (Scotland) Act 1982 (c. 45) (“the 1982 Act”). The 2009 Order provides that the licensing provisions in Part I of the 1982 Act will apply to these licences (“booking office licences”) with such modifications as set out in the Schedule to that Order. The licensing regime does not apply if the number of vehicles for which the bookings are taken is less than four.

Section 37 of and Schedule 5 to the Immigration Act 2016 (c. 19) (“the 2016 Act”) make provision to ensure that private hire vehicle licences and operator licences in England and Wales, and Northern Ireland (to which, in Scotland, booking office licences are the equivalent) cannot be held by a person who does not have permission to work in the United Kingdom. Paragraphs 29 to 32 of Schedule 5 to the 2016 Act amended the 1982 Act to make provision for such regulation of taxi hire and private hire vehicle licences in Scotland. These Regulations make consequential provision to make booking office licences subject to the same system of regulation by amending the 2009 Order.

Regulation 5 inserts a new article 3A into the 2009 Order so that local authorities are prohibited from granting a booking office licence to a person unless the authority is satisfied that the person is not disqualified by reason of the person’s immigration status from holding a booking office licence.

Regulation 6 amends the Schedule to the 2009 Order so that Part I of the 1982 Act has effect subject to the modifications contained in that Schedule as now amended.

Regulation 7 makes transitional provision.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary, or public sectors is foreseen.