



Home Office

GUIDANCE FOR LICENSING AUTHORITIES IN SCOTLAND TO PREVENT ILLEGAL WORKING IN THE TAXI AND PRIVATE HIRE CAR SECTOR

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1. Introduction

The [Immigration Act 2016](#) (the 2016 Act) amended existing licensing regimes in the UK to seek to prevent illegal working in the private hire vehicle (PHV¹) and taxi sector². With effect from 1 December 2016, the provisions in the 2016 Act prohibit all licensing authorities³ from issuing licences⁴ to anyone who is disqualified by reason of their immigration status, and they discharge this duty by conducting immigration checks. The 2016 Act also embeds other immigration safeguards into the existing licensing regimes across the UK.

1.1 What does this measure do?

The provisions in the 2016 Act amend existing licensing regimes across the UK to prevent people without lawful immigration status and the right to work from holding taxi or private hire driver licences; and operator licences in England, Wales and Northern Ireland. This has been achieved by adapting the following existing licensing legislation across the UK: London Hackney Carriages Act 1843; The London Cab Order 1934; Metropolitan Public Carriage Act 1869; Private Hire Vehicles (London) Act 1998; Local Government (Miscellaneous Provisions) Act 1976; Plymouth City Council Act 1975; Road Traffic Offenders (Northern Ireland) Order 1996 and the Taxis Act (Northern Ireland) 2008. The London Cab Order 1934 was further amended by regulations on 1 December 2016 to have a similar effect in respect of London taxis, and the Civic Government (Scotland) Act 1982 (Licensing of Booking Offices) Order 2009 was amended on 22 January 2018 to have a similar effect in respect of booking offices in Scotland.

The new provisions mean that driver and booking office licences must not be issued to people who are illegally present in the UK, who are not permitted to work; or who are permitted to work, but are subject to a condition that prohibits them from holding such a licence.

Licensing authorities must discharge this duty by requiring the applicant to submit one of a number of prescribed documents which show that the applicant has permission to be in the UK and undertake work as a private hire car (PHC) or taxi driver, or to hold a booking office licence. The check must be performed when the applicant first applies for a licence or first applies to renew or extend their licence, whether for the full statutory term or for a lesser period on or after 1 December 2016 for a driver licence, and on or after 22 January 2018 for a booking office licence. For those who have limited permission to be in the UK, the licensing authority must repeat the check at each subsequent application to renew or extend the licence until such time as the applicant demonstrates that they are entitled to remain indefinitely in the UK.

¹ Referred to in Scotland as a private hire car.

² In England and Wales outside London, these provisions also apply to pedi-cabs by virtue of being 'hackney carriages'.

³ The exception is London taxis, for which Transport for London have made equivalent provision by amending the London Cab Order 1934.

⁴ As booking office licences in Scotland are governed by secondary legislation, the Civic Government (Scotland) Act 1982 (Licensing of Booking Offices) Order 2009, this Order was amended by a consequential order made under the 2016 Act.

Where a person's immigration permission to be in the UK is time-limited to less than the statutory length for a licence, the licence must be issued for a duration which does not exceed the applicant's period of permission to be in the UK and work. In the event that the Home Office cuts short or ends a person's immigration permission (referred to as curtailment or revocation), any driver licence that person holds, which was granted as a consequence of an application made on or after 1 December 2016, and any booking office licence made on or after 22 January, will automatically cease to have effect.

The provisions also add immigration offences and penalties to the list of grounds on which taxi and, PHC driver licences and booking office licences may be suspended or revoked by licensing authorities. In circumstances where the licence expires, or is suspended or revoked on immigration grounds, it must be returned to the issuing licensing authority. Failure to return the licence will be a criminal offence, punishable on conviction in a Sheriff's Court by a fine (see [chapter 5](#)).

1.2 Purpose of this guidance

This guidance is issued for use by licensing authorities in Scotland. Equivalent guidance has been issued for the relevant licence issuing bodies in England and Wales, and Northern Ireland.

Licensing authorities are under a duty not to issue licences to people who are disqualified from holding them by their immigration status. In determining whether someone is disqualified, licensing authorities are under a statutory duty to have regard to this guidance.

The requirement to check the immigration status of licence applicants does not amend or replace the existing 'fit and proper' person test that licensing authorities must perform; this includes the obtaining of a Certificate of Good Conduct for applicants who have resided abroad for a period of time.

This guidance has been revised to include booking office licences with effect from 22 January 2018.

1.3 Who is disqualified from holding a licence?

A person is disqualified from holding a PHC and taxi driver licence, and a booking office licence by reason of their immigration status if:

- the person requires permission to enter or remain in the UK and has not been granted it; or
- the person's permission to enter or remain in the UK
 - is invalid,
 - has ceased to have effect (whether by reason of curtailment, revocation, cancellation, passage of time, or otherwise), or
 - is subject to a condition preventing the person from doing work of that kind.

A person is also disqualified from holding a licence if they are subject to a condition on their permission to be in the UK preventing them from holding a licence, for example, they are subject to an immigration restriction that does not permit them to work.

1.4 For whom is this guidance relevant?

This guidance applies to applications, renewals and requests to extend a current PHC or taxi driver licence sent to licensing authorities on or after 1 December 2016 and the same in respect of a booking office licence sent on or after 22 January 2018.

It should be used by licensing authority staff responsible for the issue, renewal, suspension and revocation of a PHC licence, taxi driver licence, or booking office licence.

These provisions only apply to the applicant and do not apply to the MOT or other vehicle check. They also do not apply to a DVLA driver's licence, although the [Immigration Act 2014](#) and the 2016 Act introduced provisions regarding the issue and revocation of DVLA licences in respect of illegal migrants and, upon commencement, will provide, through [section 44](#) of the 2016 Act, a new criminal offence of driving illegally in the UK.

1.5 When will this guidance be relevant?

The checking requirements are not retrospective. This means that licensing authorities do not have to check the immigration status of those people who already hold a PHC or taxi driver's licence which was issued before 1 December 2016 or hold a booking office licence which was issued before 22 January 2018, or sent their licence application to the licensing authority before these dates. The check must be performed when the applicant first applies i.e. sends the application for a licence to the licensing authority or first applies to renew their licence or extend their licence. A postmark may be acceptable evidence of date of application.

For those who have time-limited permission to be in the UK, the check must be repeated at each subsequent application to renew or extend the licence until such time as the applicant demonstrates that they are entitled to remain indefinitely in the UK, and as a result, there are no restrictions on their ability to work. The documents referred to in the list of acceptable documents in [Annex A](#) will indicate whether the individual has temporary permission to be in the UK or is entitled to remain indefinitely and work in the UK. The list of acceptable documents is explained further in [section 3](#).

1.6 How should this guidance be used?

This guidance sets out what licensing authorities need to know about their legal duty not to issue a licence to a person who is disqualified from holding one because of that person's immigration status. It sets out how licensing authorities should discharge this duty by conducting document checks. It explains on whom a licensing authority needs to make checks, when, and how to do the checks correctly.

1.7 References in this guidance

References to 'we' or 'us' in this guide are to the Home Office. References to 'you' and 'your' are to the licensing authority.

'Days' means calendar days, i.e. including Saturdays, Sundays and bank holidays.

'A current document' means a document that has not expired.

'A driver licence' means a licence issued to a driver of a private hire car (PHC) or taxi.

2. Right to a licence check

2.1 What does 'right to a licence' mean?

For the purposes of this guidance, 'a right to a licence' means that someone is not disqualified by their immigration status from holding a driver licence or booking office licence. There may be other reasons why licensing authorities may refuse to issue a licence, which still stand. This guidance does not relate to these other reasons, for example, the fit and proper person test.

For all driver licence applications made on or after 1 December 2016, you must comply with the legal requirement not to issue a licence to someone who is disqualified from holding the licence by reason of their immigration status. The same requirement applies to applications for a booking office licence which are made on or after 22 January 2018. You must discharge this duty by requiring the applicant to submit one of a number of prescribed documents which show that the applicant has permission to be in the UK and undertake work as a PHC or taxi driver or hold a booking office licence. The check must be performed when the applicant first applies for a licence or first applies to renew or extend their licence, whether for the full statutory term or for a lesser period, on or after the dates specified above. For those who have limited permission to be in the UK, you must repeat the check at each subsequent application to renew or extend the licence until such time as the applicant demonstrates that they are entitled to remain indefinitely in the UK. The documents referred to in the list of acceptable documents in [Annex A](#) will indicate whether the individual has temporary permission to be in the UK or is entitled to remain indefinitely in the UK. The list of acceptable documents is explained in [section 3](#).

You must be satisfied that the person is not disqualified from holding a licence **before** you issue a licence to that person.

Checking a person's documents to determine if they can hold the licence comprises **three key steps**:

1. **Obtain** the person's original document(s);
2. **Check** the document(s) in the presence of the applicant; and
3. Make and retain a clear **copy** of the document(s).

You can find detailed information on how to correctly conduct right to a licence checks and a list of acceptable documents later in this guidance. You are responsible for conducting the visual inspection of the document(s) presented to you.

2.2 Why do you need to do checks?

Licensing authorities have a legal duty not to issue a driver, or booking office licence to someone who is disqualified by their immigration status from holding it, in order to prevent illegal working in the PHC and taxi sector. In order to discharge this duty, this

guidance requires you to conduct document checks as part of the licence application process.

The checks should establish whether an applicant has a lawful immigration status in the UK, or is prohibited from working because they are in the UK illegally or is subject to a condition that prevents them from holding a licence.

2.3 Who do you conduct checks on?

You should conduct right to a licence checks in accordance with [section 3](#) of this guidance on **all** applicants for a driver or booking office licence. This means you should ask all applicants for such a licence to provide you with one of the original documents or combination of documents set out at [Annex A](#) to this guidance.

To ensure that you do not discriminate against anyone, you should treat all licence applicants in the same way when they first apply on or after 1 December 2016 in the case of a driver licence and 22 January 2018 in the case of a booking office licence, and during the licence application process. This will also demonstrate a fair, transparent and consistent application process. You should not make assumptions about a person's right to work in the UK, or their immigration status on the basis of their nationality, ethnic or national origin, accent, the colour of their skin, or the length of time they have been resident in the UK.

2.4 When do you conduct checks?

The immigration checks have been developed to fit within the existing licensing regimes and to keep the additional requirements and burdens to a minimum. Accordingly, you should incorporate the right to a licence check into your existing application process at any point before a decision is made on the application. The check could be carried out, for example, when the applicant first lodges their application, or at a subsequent interview. Your guidance to applicants should make clear when the check will be performed in order that the applicant may submit the necessary documents at the appropriate time.

You may need to amend your application forms to include a declaration stating that the applicant has to have the correct immigration status to apply for the licence, that they must provide to you immigration status documents in line with [Annex A](#) in order for their application to be considered valid and that they understand that the licence will cease to have effect if they are no longer entitled to work in the UK. The application form or supporting guidance should state which document or documents must be submitted by the applicant (as set out in [Annex A](#)) and when and indicate that you may check their immigration status with us. The right to work check will be conducted by you during a face to face meeting with the applicant.

The declaration itself can be a succinct statement, such as:-

'Your right to work in the UK will be checked as part of your licence application and this could include the licensing authority checking your immigration status with the Home Office. We may also share information with the Home Office. You must therefore provide a document or document combination that is stipulated as being suitable for

this check. The list of documents is set out at [guidance link]. You must provide the original document(s), such as a passport or biometric residence permit as indicated in the published guidance, so that the check can take place. The document will be checked in your presence. The document(s) will be copied and the copy retained by the licensing authority. The original document will be returned to you. Your application will not be considered valid until all the necessary information and original document(s) have been produced and the relevant fee has been paid.

If there are restrictions on the length of time you may work in the UK, your licence will not be issued for any longer than this period. In such circumstances, the check will be repeated each time you apply to renew or extend your licence. If, during this period, you are disqualified from holding a licence because you have not complied with the UK's immigration laws, your licence will cease to have effect and you must return it to the licensing authority. Failure to do so is a criminal offence.'

If the applicant fails to provide document(s) specified in [Annex A](#) that demonstrate a right to a licence in accordance with your published application process, you should consider whether to offer a further opportunity to provide the documents before rejecting the application, if your usual processes allows this.

If an applicant who has not provided the necessary documentation as indicated, makes a case under paragraph 8(5A) of Schedule 1 of the Civic Government (Scotland) Act 1982 for their application to be accepted late, they must show good cause as to why the documentation was not previously available. A simple failure to provide documents would not amount to a good cause.

2.5 When does a migrant's status come to an end?

Migrants who are subject to UK immigration control may be granted permission to enter or remain in the UK, with a condition permitting employment, on a time-limited basis or on an indefinite basis. When the person's stay is time-limited, this will be shown in their immigration documentation. It is possible for a migrant to apply to extend their stay, and if they do so before their previous status expires, they continue to have any right to work that they previously had while their application and any associated administrative review or appeal are outstanding. In such cases, a person's status may be confirmed by you contacting the Home Office's Evidence and Enquiry Unit.

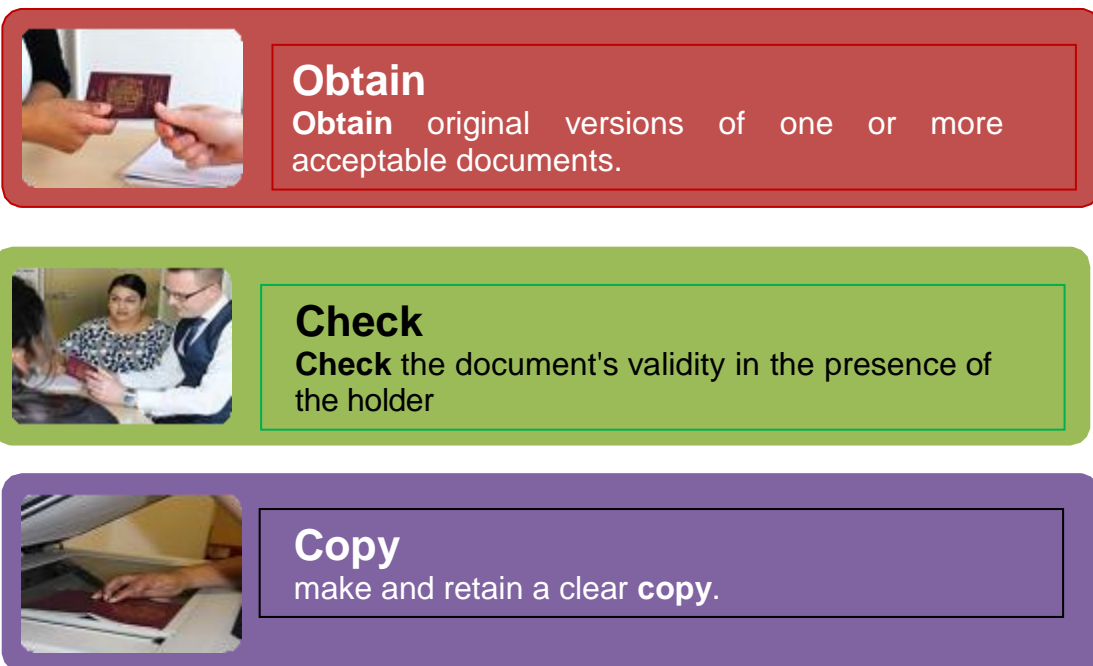
3. How do you conduct checks?

3.1 Three-step check

There are three basic steps to conducting a right to work check. Remember three keywords:

1. **Obtain**
2. **Check**
3. **Copy**

Illustration 1: Summary of a right to a licence check



Obtain
Obtain original versions of one or more acceptable documents.

Check
Check the document's validity in the presence of the holder

Copy
make and retain a clear copy.

Illustration 2 explains in more detail what you need to do in each of the three steps to correctly conduct a check.

Illustration 2: The Three-Step Check

Step 1 Obtain

You must obtain **original** document(s) from either [List A](#) or [List B](#) of acceptable documents at [Annex A](#).

Step 2 Check

You must **check** that the document(s) are genuine and that the person presenting them is the licence applicant, the rightful holder of the document(s), and not disqualified from obtaining a licence. You must check:

- photographs and dates of birth are consistent across documents and with the person's appearance in order to detect impersonation;
- expiry dates for permission to be in the UK have not passed;
- any work restrictions to determine if the applicant is prohibited from holding a licence;
- the documents are genuine, have not been tampered with and belong to the holder; and
- the reasons for any difference in names across documents (e.g. original marriage certificate, divorce decree absolute, deed poll). These supporting documents should also be photocopied and a copy retained.

Guidance on examining and identifying fraudulent identity documents may be found [here](#). A checklist which may assist you is at [Annex B](#) of this guidance.

Step 3 Copy

You must make a **clear copy** of each document checked and retain these copies securely, with other licence application documents. If you do not retain the copy, you will have to repeat the check if someone permitted to remain indefinitely in the UK applies to renew or extend their licence. You should copy:

- **Passports:** any page with the document expiry date, the holder's nationality, date of birth, signature, immigration permission expiry date, biometric details, photograph and any page containing information indicating the holder has an entitlement to enter or remain in the UK and is not prohibited by their conditions of work from holding the licence.
- **All other documents:** the document in full, including both sides of a Biometric Residence Permit and a Residence Card (biometric format).

Step 1: Obtain acceptable documents

Lists of acceptable documents for checks

You must undertake a document check in respect of every application for a new licence or to renew or extend an existing licence which is made on or after 1 December 2016 in the case of a driver licence, and 22 January 2018 in the case of a booking office licence. Once you have done this, you will only be required to undertake a further document check when the applicant subsequently applies to renew or extend their licence if they have time-limited immigration permission to work in the UK unless you did not retain a copy of the document or documents which indicated that they had no restrictions on their right to stay and work in the UK.

The full range of the documents you may accept for checks are set out in two lists – [List A](#) and [List B](#). These are set out in [Annex A](#) to this guidance. You will note that the lists contain more secure documents such as national passports, [biometric residence permits](#) and [residence cards \(biometric format\)](#) – these documents are preferred because they are more secure. Applicants may not hold these documents, so the list also contains other acceptable evidence of immigration status. Please note that a UK driver's licence **is not** evidence of lawful status and right to work.

You must obtain an original document, or document combination, specified in one of these lists in order to comply with **step 1** of the 3-step check. This is because scanned and photocopied documents make forgeries less easy to identify.

[List A](#) contains the range of documents which you may accept for a person who has a permanent right to remain in the UK. This includes UK passports (which may have expired). Following the correct checks, you may grant a licence for a period of up to the maximum statutory period for that type of licence. This is because there are no limitations on what work the applicant can undertake or for how long. When the applicant provides document(s) from List A and you have retained the copy, a further check will not be necessary when they subsequently apply to renew or extend their licence. If you do not retain the copy, you will have to repeat the check when they next apply to renew or extend their licence.

[List B](#) contains the range of documents which may be accepted for a person who has a temporary right to be in the UK. If you conduct the check correctly you may issue the licence for a period up to the expiry date of the person's leave indicated by the document, although this must not exceed the maximum statutory period for which such a licence may be issued. You will need to request the original document and check these on each occasion that the applicant subsequently applies to renew or extend their licence until such time as the applicant provides document(s) from [List A](#) that demonstrates that they have a permanent right to remain in the UK.

A number of the documents in the list will only demonstrate a right to a licence if the document is current when the check takes place, including passports issued

outside the [European Economic Area](#) which are endorsed to say that the holder has indefinite leave to remain in the UK (ILR). If the passport endorsed with ILR is current when the check takes place, a licence may be granted up to the statutory maximum even though the passport might time expire before the licence time expires. If the passport which is endorsed with ILR is not current when the check takes place, you may invite the applicant to apply for a [biometric residence permit](#). Further information on this application is contained [here](#). Once the application has been made, you may verify this check through the Evidence and Enquiry Unit and, once successfully verified, grant the licence for a maximum period of 6 months from the date of verification.

Some documents, such as British passports, do not have to be current in order to demonstrate a right to a licence. However, you still need to check carefully that the document relates to the applicant and, if necessary, request further evidence before issuing the licence. [Annex A](#) clearing indicates which documents must be current to demonstrate the right to a licence.

Biometric Residence Permits

For most non-EEA migrants granted permission to be in the UK, the document you are likely to see to demonstrate a right to work is a Biometric Residence Permit (BRP). The Home Office began issuing BRPs in November 2008. Since July 2015, BRPs have been the only evidence of lawful residence currently issued by the Home Office to most non-European Economic Area (EEA) nationals and their dependants granted permission to remain in the UK for more than six months.

BRPs are credit-card sized immigration documents that contain a secure embedded chip and incorporate sophisticated security safeguards to combat fraud and tampering. They provide evidence of the holder's immigration status in the UK including the date on which the person's entitlement to work in the UK is due to expire. In most cases, this will be the expiry date of the BRP. However, where the BRP indicates that a person has indefinite leave to enter or remain (ILE or ILR) in the UK, this means that there is no time limit on the holder's ability to live and work in the UK (although the BRP itself is valid for 10 years after which the holder needs to apply for a replacement). BRPs contain the holder's unique biometric identifiers (fingerprints and digital photo) within the chip, are highly resistant to forgery and counterfeiting, display a photo and biographical information on the face of the document and details of entitlements, such as access to work and/or public funds. BRPs therefore provide you with a secure and simple means to conduct a right to a licence check.

Migrants overseas granted permission to enter the UK for more than six months are issued with a vignette (sticker) in their passport, which will be valid for 30 days to enable them to travel to the UK. Following their arrival, they will have 10 days or before their vignette expires (whichever is the later) to collect their BRP from the Post Office branch detailed in their decision letter. You should not issue the licence on the basis of the 30 day vignette, but wait until you have seen and checked the related BRP.

available [here](#). Guidance on examining and identifying fraudulent identity documents may be found [here](#). This contains a helpful checklist which has been reproduced in [Annex B](#).

You must perform the check carefully. You must make a visual inspection of the original document, and then check the details and the photograph against the holder to identify reasonably apparent forgeries and imposters.

You are not required to use artificial aids, such as an ultra violet lamp or a magnifying glass, although you will find such aids useful when performing the check. You may also wish to consider using a commercially available document scanner to help check the authenticity of biometric documents presented to you, notably passports and BRPs. Guidance about using such technology is available at [this link](#).

If someone gives you a false document or a genuine document that does not belong to them, you may use this link to [report the individual to the Home Office](#). You may also contact [Crimestoppers](#).

You may obtain assistance on document types from your Local Partnership Manager (LPM) or email I&SDLPMSSupportTeam@homeoffice.gsi.gov.uk. In most cases, your LPM or your local Immigration, Compliance and Enforcement (ICE) team will also be your first point of contact if you suspect that you have encountered a forged or counterfeit document (though they are unable to respond to requests for immigration checks. Please see [section 3.2](#) below).

Step 3: Retain a copy of document(s)

You should keep a copy of every document you have checked. This could be a hard or an electronic copy. You should keep the copy securely in accordance with data protection principles. Provided the specified document or documents are in [List A](#), if you retained the copy, you will not have to repeat the check when the licence holder subsequently applies to you to renew or extend his licence.

3.2 Home Office verification checks

In most cases, you should be able to make an assessment that the person is not disqualified from holding a licence by making a visual check of the document(s) against the person presenting them. This will include all cases where the applicant is a British citizen.

If you require an immigration status check on an applicant, you may contact the Home Office's Evidence and Enquiry Unit. Your Local Partnership Manager will have their contact details. The Evidence and Enquiry Unit aim to respond to your request within 10 working days.

It is only necessary to contact the Evidence and Enquiry Unit in the following circumstances to verify that someone has the right to hold a licence:

1. You are presented with a [Certificate of Application](#) which is less than six months old and indicates that work is permitted; or
2. You are satisfied that you have not been provided with any acceptable documents because the person has an outstanding application for permission to remain in the UK with the Home Office which was made before their [previous immigration permission expired](#) or has an appeal or [administrative review](#) pending against a Home Office decision and, therefore, cannot provide to you evidence of their right to a licence.

In these two circumstances, the Evidence and Enquiry Unit will confirm the individual's immigration status. You will still have to determine whether the applicant should be granted a licence. A licence issued as a consequence of this check must be limited, as indicated below, to a maximum period of **six months**. Upon any subsequent application to renew the licence, you must carry out a further document check before issuing the licence. You are prohibited by statute from issuing a licence if a person is disqualified by their immigration status.

If you are making a check because the licence applicant has an outstanding immigration application with the Home Office, or a pending appeal or administrative review against a Home Office decision, we suggest that you wait at least **14 days** after the application, appeal or administrative review was made before requesting the Evidence and Enquiry Unit to confirm the status. This is to allow time for that application, appeal or administrative review to be registered with the Home Office.

3.3 Duration of licences

If a person provides you with acceptable documents from [List A](#) at [Annex A](#), there is no restriction on their right to work in the UK so their immigration status does not prevent you from issuing them a licence for up to the statutory maximum period. Provided you retained the copy of the document or documents that were originally checked, you will not be required to repeat the check when the applicant applies to renew or extend their licence with you.

If a person provides you with acceptable document(s) from [List B](#), this means that there are restrictions on their right to live and work in the UK. Their licence must not be issued for a period that exceeds their permission to be in the UK (up to the statutory maximum period for that type of licence).

When the licence has been issued on the basis of a Certificate of Application which states that work is permitted, and which has been verified by our Evidence and Enquiry Unit, the licence may only be issued for a maximum period of six months from the date of the Certificate of Application.

When the licence has been issued on the basis that the applicant has an outstanding in-time⁵ Home Office application, appeal or administrative review

⁵ An in-time application is one that was submitted before the applicant's earlier permission to be in the UK expired, and so, by operation of statute, extends their permission until a decision has been made on the application.

which has been verified by our Evidence and Enquiry Unit, the licence may be issued for a maximum period of six months from the date of the licence decision. If the individual makes a further application to extend or renew their licence, you must repeat the check on original documents to verify their current immigration status.

3.4 When will a licence cease to have effect?

A licence issued in respect of an application made on or after 1 December 2016 will lapse when the holder's permission to be in the UK comes to an end. This could be because their permission to be in the UK has time-expired or because we have brought it to an end (for example, we have curtailed their permission to be in the UK). You are under no duty to carry out on-going immigration checks to see whether a licence holder's permission to be in the UK has been brought to an end. The migrant will be aware when their time limited permission has come to an end and we will inform them if we curtail their permission to be in the UK.

4. Eligibility of certain categories of migrant to hold licences

It is important to determine that an applicant for a licence is not only in the UK lawfully and has permission to work, but that they are not prevented from undertaking work as a PHC or taxi driver or holding a booking office licence.

The following section provides clarification on several specific immigration categories. If you require further advice in relation to these or other immigration categories, you may contact your Local Partnership Manager.

4.1 Tier 1: Entrepreneur

A person granted leave to enter or remain as a Tier 1 (Entrepreneur) migrant is prohibited from engaging in employment except where they are working for the business which they have established, joined or taken over. They will comply with this restriction if, for example, they are employed as the director of the business in which they have invested, or if they are working in a genuinely self-employed capacity. They may not, however, be considered to be working for their own business if the work they undertake amounts to no more than employment by another business (for example, where their work is no more than the filling of a position or vacancy with, or the hire of their labour to that business, including where it is undertaken through engagement with a recruitment or employment agency). In this capacity, they would have a contract of service. This applies even if it is claimed that such work is undertaken on a self-employed basis.

You must therefore be satisfied that the applicant is genuinely engaged in running their own business as a PHC or taxi driver or entitled to hold a booking office licence. You should consider requesting evidence of an applicant's appropriate registration of their business or for self-employment with HM Revenue and Customs as part of the consideration of any application. If an applicant is deemed to be effectively an employee and the business is not their own, the applicant would not be complying with their immigration permission if they were to carry out this work and their application should be rejected.

For more information, please see the policy guidance for Tier 1 (Entrepreneur) on [GOV.UK](https://www.gov.uk).

4.2 Tier 2: Skilled Workers

A person granted permission to be in the UK under Tier 2 as a Skilled Worker is granted permission to work for a specified employer (a sponsor) in a specified capacity. It is unlikely they would qualify for a licence in this sector. A dependant of a Tier 2 migrant may qualify for a licence, as the same restrictions do not apply.

4.3 Tier 4: Students

A Tier 4 student may have permission to work for a limited number of hours during term time whilst studying in the UK, and full time during holidays. There are restrictions in place as to who is eligible to work and this will be indicated in their BRP or passport vignette. Their right to work will be dependent on them continuing to follow their course of study. They cannot be self-employed but they may qualify for a licence if they are employed by someone. Where a Tier 4 student has completed their course, they are only able to work if they were initially given permission to work as part of their conditions as a student, until that permission expires or otherwise comes to an end.

4.4 Asylum seekers

Asylum seekers do not usually have permission to work and when they do, this is only in a [shortage occupation](#) which will not involve the PHC and taxi sector and therefore they must not be granted a licence if their application is made on or after 1 December 2016.

An Application Registration Card (ARC) is provided to a person who has claimed asylum in the UK, pending consideration of their case. An ARC may exceptionally state that the holder has a right to work, but this will only be in a shortage occupation. You must not grant a driver or booking office licence on the basis of the ARC. However, you should check whether the asylum seeker has alternative evidence of a right to hold a licence.

A person who has been recognised by the UK as a refugee is issued with a BRP and has no restrictions on their right to work in the UK whilst their BRP remains valid.

4.5 Nationals from the European Economic Area (EEA)

[EEA and Swiss nationals](#) have the right to work in the UK. However, you should not issue a licence to any individual simply on the basis that they claim to be an EEA national. You should also be aware that not all EEA nationals are permitted to work in the UK without restrictions (please see separate [guidance](#) in respect of Croatian nationals). You should require any person who claims to be an EEA national to produce a valid EEA passport or EEA national identity card that confirms that they are a national of an EEA country or Switzerland.

4.6 Non-EEA Family Members of EEA nationals

Non-EEA nationals who are the direct family members of an EEA (or Swiss) national who is exercising European Union Treaty rights or has permanent residence are also entitled to live and work in the UK. You should not grant a licence to any individual simply on the basis that they claim to be the family member of an EEA national. You should also be aware that not all family members of EEA nationals are permitted to work in the UK.

There is no mandatory requirement for non-EEA nationals who are resident in the UK as a family member of an EEA national to register with the Home Office or to obtain documentation issued by the Home Office.

Consequently, it is open to any non-EEA national who has an enforceable EU law right to work in the UK - as a direct family member of an EEA national or by virtue of a derivative right of residence - to demonstrate the existence of that right through means other than those documents in [Annex A](#).

In such cases, you may choose to accept such alternative evidence. You should ask to see the following:

- evidence of the applicant's own identity – such as a passport,
- evidence of their relationship with the EEA family member – e.g. a marriage certificate, civil partnership certificate or birth certificate, and
- evidence that the EEA national has either a right of [permanent residence in the UK](#) or is one of the following if they have been in the UK for more than 3 months:
 - (i) working e.g. employment contract, wage slips, letter from the employer,
 - (ii) self-employed e.g. contracts, invoices, or audited accounts with a bank,
 - (iii) studying e.g. letter from the school, college or university and evidence of sufficient funds, or
 - (iv) self-sufficient e.g. bank statements.

For family members of EEA nationals who are studying or financially independent, you must also see evidence that the EEA national and any family members hold comprehensive sickness insurance in the UK. This can include a private medical insurance policy, an EHIC card or an S1, S2 or S3 form.

You must only accept original documents as evidence.

In the event that a non-EEA national is found not to qualify to work in the UK you will have issued a licence which will cease to have effect.

4.7 Croatian nationals

Croatian nationals' access to the UK labour market are subject to transitional arrangements set out in the [Accession of Croatia \(Immigration and Worker Authorisation\) Regulations 2013](#). Under these Regulations, a Croatian national who wishes to work in the UK and who is subject to the worker authorisation requirement will need to obtain an accession worker authorisation document (permission to work) before starting any employment.

This means that since 1 July 2013, a Croatian national will only be able to work in the UK if they hold a valid accession worker authorisation document (such as a purple registration certificate) or if they are exempt from work authorisation. The list of exempt categories is contained in our guidance.

Croatian students who have been issued with a yellow registration certificate are only permitted to work for 20 hours a week during term time and full time during the holidays.

5. Suspension and Revocation of licences

We may provide you with information, or you may obtain information from other sources, which will cause you to wish to suspend or revoke a licence on the basis that the licence holder's right to hold a licence has changed on or after 1 December 2016 in respect of a driver licence and 22 January 2018 in respect of a booking office licence. , For example, their permission to be in the UK has been curtailed, they have been served with a deportation order or they have been convicted of an immigration offence (generally, but not limited to, convictions under the Immigration Act 1971) or subjected to an immigration penalty which has not been cancelled following an objection or appeal. An immigration penalty will have been issued, for example, because they employed an illegal worker or let premises to someone who does not have a right to rent. Please note that civil penalties may be issued to UK citizens as well as migrants who breach the relevant regulations.

Such information about breaches of immigration law may also be relevant when you considering whether an individual meets the 'fit and proper' test.

On an appeal relating to a driver or booking office licence, whether it is to grant, revoke or suspend the licence, the Sheriff is not entitled to consider whether the licence holder should have been convicted of an immigration offence or received an immigration penalty or should have been granted by the Home Office permission to be in the UK. This is because rights of immigration appeal, or to have an immigration decision administratively reviewed, exist separately.

5.1 Return of the licence

The licence holder is required to return the licence to the issuing licensing authority, once that licence has expired, been suspended or revoked or ceased to have effect on immigration grounds. This is underpinned by a new criminal offence of failing to comply with the return requirement under existing taxi licensing legislation.

If the licence holder, without a reasonable excuse, fails within 7 days to return the licence to you, they commit an offence and may be prosecuted in the same way that they may already be prosecuted for failing to return a licence in other circumstances. The maximum fine is level 3 on the standard scale.

6. Providing information to the Home Office

These new provisions to prevent illegal working in relation to PHC and, taxi driver, and booking office licences do not specifically mandate you to report to the Home Office cases in which you have refused an application for a driver or booking office licence or subsequently suspended or revoked a licence on immigration grounds.

However, you are requested to provide the Home Office with this information in order that other appropriate enforcement action may be taken against a person, including revoking their UK driving licence. This information exchange is supported by [section 55](#) of the Immigration Act 2016 which expands the existing information sharing gateway at [section 20](#) of the Immigration and Asylum Act 1999 (the 1999 Act) and gives public authorities a clear statutory authority to supply information or documents to the Home Office which may be used for immigration purposes. See: [Factsheet](#). Any information should be sent using the template at [Annex C](#) to tplicensing@homeoffice.gsi.gov.uk.

In addition, section 20A of the 1999 Act, as amended by section 55 of the 2016 Act, places a duty on local authorities to provide Home Office immigration officials with nationality documents which are in their possession, but only when specifically requested to do so. See: [Factsheet](#). So, you may be asked for copies of nationality documents which you have retained as part of the licensing application if they belong to someone who is liable to be removed from the UK.

7. Do you have any questions?

In the first instance, please refer to this guidance. You may also wish to look at the further useful information provided in the existing illegal working guidance. Employers already have a duty to do checks. However, as many licence holders are self-employed, their right to work and immigration status is not checked, so through these new provisions and this guidance we aim to prevent illegal working in this sector. When dealing with a licence application, you must check the immigration status of all applicants, including those who are not self-employed.

The illegal working guidance is available at:

<https://www.gov.uk/government/collections/employers-illegal-working-penalties> and includes:

- [An employer's guide to the administration of the civil penalty scheme](#);
- [An employer's guide to acceptable right to work documents](#);
- [Frequently asked questions](#);
- [Code of practice on preventing illegal working: Civil penalty scheme for employers](#);
- [Code of practice for employers: Avoiding unlawful discrimination while preventing illegal working](#);
- An employer's '[Right to Work Checklist](#)';
- The online interactive tool '[Employer Checking Service Enquiries](#)'; and
- The online interactive tool '[Check if someone can work in the UK](#)'.

Guidance on examining and identifying fraudulent identity documents may be found [here](#).

If you have questions about a person's immigration status, you may contact the Home Office's Evidence and Enquiry Unit.

Your Local Partnership Manager will be able to assist you if you with question about document types or if you suspect you have been provided with a forged document. They cannot confirm a person's immigration status.

8. Annex A

Lists of acceptable documents for right to a licence checks

The lists of documents are based on those prescribed to show evidence of a right to work.

List A: No immigration restrictions on right to a licence in the UK. Once you have undertaken the necessary check once in respect of an application made on or after 1 December 2016, if you retained the copy, you will not have to repeat the check when they subsequently apply to renew or extend their licence.	
1.	A passport showing the holder, or a person named in the passport as the child of the holder, is a British citizen or a citizen of the UK and Colonies having the right of abode in the UK.
2.	A passport or national identity card showing the holder, or a person named in the passport as the child of the holder, is a national of a European Economic Area country or Switzerland.
3.	A Registration Certificate or Document Certifying Permanent Residence issued by the Home Office to a national of a European Economic Area country or Switzerland.
4.	A Permanent Residence Card issued by the Home Office to the family member of a national a European Economic Area country or Switzerland.
5.	A current Biometric Immigration Document (Biometric Residence Permit) issued by the Home Office to the holder indicating that the person named is allowed to stay indefinitely in the UK, or has no time limit on their stay in the UK.
6.	A current passport endorsed to show that the holder is exempt from immigration control, is allowed to stay indefinitely in the UK, has the right of abode in the UK, or has no time limit on their stay in the UK.
7.	A current Immigration Status Document issued by the Home Office to the holder with an endorsement indicating that the named person is allowed to stay indefinitely in the UK or has no time limit on their stay in the UK, together with an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer. An example of an Immigration Status Document may be found here .
8.	A full birth or adoption certificate issued in the UK which includes the name(s) of at least one of the holder's parents or adoptive parents (including an official extract of an entry in the register of births in Scotland in long form), together with an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
9.	A birth or adoption certificate issued in the Channel Islands, the Isle of Man or Ireland, together with an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
10.	A certificate of registration or naturalisation as a British citizen, together with an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.

List B: Restrictions on right to work in the UK. You may issue the licence (subject to statutory limitations) up to the expiry date of the permission to work in the UK. You will need to check immigration status each time an application to renew or extend the licence is received.

- | | |
|----|---|
| 1. | A current passport endorsed to show that the holder is allowed to stay in the UK and is currently allowed to do the type of work in question. |
| 2. | A current Biometric Immigration Document (Biometric Residence Permit) issued by the Home Office to the holder which indicates that the named person can currently stay in the UK and is allowed to do the work in question. |
| 3. | A current Residence Card (including an Accession Residence Card or a Derivative Residence Card) issued by the Home Office to a non-European Economic Area national who is a family member of a national of a European Economic Area country or Switzerland or who has a derivative right of residence.

This guidance [link to page 16] provides further information on checking a non-European Economic Area national family member's right to a licence. |
| 4. | A current Immigration Status Document containing a photograph issued by the Home Office to the holder with a valid endorsement indicating that the named person may stay in the UK, and is allowed to do the type of work in question, together with an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer. |

- | | |
|----|---|
| 1. | A Certificate of Application issued by the Home Office under regulation 17(3) or 18A (2) of the Immigration (European Economic Area) Regulations 2006, to a family member of a national of a European Economic Area country or Switzerland stating that the holder is permitted to take employment which is less than 6 months old together with Verification from the Home Office Evidence and Enquiry Unit. The licence may be granted for six months from the date of the Certificate of Application. |
| 2. | A Verification issued by the Home Office Evidence and Enquiry Unit to you, which indicates that the named person may stay in the UK and work because they have an in time application, appeal or administrative review and which is outstanding. The licence may be issued for six months from the date of the licence decision. |

9. Annex B

Checklist on examining and identifying fraudulent identity documents

	Cause for concern?	
	Yes	No
Does the document allow the person to live and work in the UK?		
Is the person presenting the document appear to be the same as the image or photograph?		
Is the document genuine or counterfeit? Check for:		
General quality/cover – Is it manufactured to a high standard?		
Watermarks – view the page with a light source, e.g. a torch or lamp		
UV reaction – If a UV light is available, check if the document reacts dull		
Random fibres – Are there random fibres on each of the document's pages?		
Print quality – Is the quality of the print of a high standard (no dots)?		
Intaglio ink on inside cover of passports – Is there raised ink on the document?		
Optically variable ink – Move the document under a light source		
Machine readable zone (font) – If available, use an online MRZ checker		
Holographic devices – Move the document under a light source		
Have any pages been substituted? Check for:		
Construction / page alignment / page numbers / page design		
Counterfeit pages (see above)		
Has the photograph / image been substituted? Check for:		
Damage around the photograph / image		
Any safeguards over photograph / image e.g. ink stamp, emboss, laminate		
Correct image type		
Evidence of a second laminate – move the document under a light source		
Have any details been altered? Check for:		
Damage to paper around details e.g. date of birth		
Is the document a fantasy / pseudo document? – Can you find in on the PRADO or EDISON websites?		

Glossary of terms used in Annex B.

Background print – Areas on secure documents which are printed to a high standard. Using magnification, solid lines and detailed designs should be visible.

Intaglio Ink – A printing process which results in the ink having a raised and rough feel and which is found on the inside of most (not all) passports. It often involves a hidden pattern, revealed when the page is viewed at an oblique angle.

MRZ – A machine readable zone which allows for optical character recognition of characters which match a specific font.

Optically Variable Ink – A clear colour change from one colour to another which should be seen when the document is tilted.

Random Fibres – Security fibres which appear randomly across the paper. They can be visible to the naked eye or react when exposed to UV light.

Watermark – Created during the paper manufacturing process by varying the thickness of paper. It should consist of subtle changes in tone and both lighter and darker areas.

Further guidance on examining identity documents and examples of these techniques may be found [here](#).

10. Annex C

PHC and taxi driver and booking office licence referral form



Driver and booking officer licence referral form

Please complete the below details and press submit to return to Immigration Enforcement

Licensing Authority Details	
Name	
Email	
Licensing Authority	
Date Referred	

Individual's details	
Home Office Reference (if known)	
Surname	
Forename(s)	
Gender	
Nationality	
Date of birth	
Other known names	
Last known address	
Postcode	
Contact number	
Driving licence number	
NI Number	
Document type presented	
Document number	

Action taken	
First application or renewal	
Licence denied, suspended or revoked	
Date	
If revoked, has the licence been returned?	

If email doesn't open after clicking button - check whether you see "Security Warning, Macros have been disabled." message above. If yes, click options and enable this content.

Email form to the Home Office