# Taxi and Private Hire Car Drivers’ Licences Guidance

**Orkney Islands Council**

**Civic Government (Scotland) Act 1982**

These notes are for guidance only and are not an authoritative statement of the procedures and provisions relating to applications for licences and licences issued under the Civic Government (Scotland) Act 1982 (the 1982 Act). Any person who requires further information should consult the Head of Legal Services, as undernoted, or a solicitor.

## 1. Geographical Scope of Taxi and PHC Licensing

1.1. Taxis and private hire cars (PHCs) operating within the Mainland and linked South Isles of Orkney require to be licensed by Orkney Islands Council (the Council).

## 2. Vehicle Licence and Driver’s Licence

2.1. The vehicle and the driver each require to be separately licensed.

2.2. Anyone driving a taxi or PHC must obtain the appropriate driver’s licence.

2.3. A taxi driver is authorised to drive both taxis and PHCs. However, a PHC driver is only authorised to drive PHCs and cannot drive taxis.


## 3. Conditions

3.1. The Council may attach reasonable conditions to taxi and PHC driver’s licences, with each application being dealt with on its own merits. The licence holder will be required to comply with the standard conditions which will form part of the licence when granted. These will usually accompany this document, but can be obtained from the Head of Legal Services, as undernoted, or from [http://www.orkney.gov.uk/Service-Directory/T/Taxi-and-Private-Hire-Car-Driver.htm](http://www.orkney.gov.uk/Service-Directory/T/Taxi-and-Private-Hire-Car-Driver.htm).

3.2. Applicants should note that conditions attached to drivers' licences issued by the Council require drivers to comply with the Taxi Drivers’ Licences (Carrying of Guide Dogs and Hearing Dogs) (Scotland) Regulations 2002 and Private Hire Car Drivers’ Licences (Carrying of Guide Dogs and Hearing Dogs) (Scotland) Regulations 2004. These require taxi and PHC drivers to carry guide, hearing or other assistance dogs accompanying disabled people in their vehicles at no extra charge. The dog must be allowed to remain with the passenger.

3.3. Drivers who have a medical condition which would be aggravated by carrying dogs in their vehicle, can apply for exemption from this requirement, on medical grounds. Application for an exemption should be made to the Council – please obtain the relevant application form from our website or contact us (refer to section 9.2 below).
3.4. When considering your application for an exemption, the Council will require details of your medical condition and may require you to undergo a medical examination at your own expense and/or permission to contact your GP or other medical authorities. If your application for exemption is successful you will be issued with a notice of exemption which will specify the vehicle or types of vehicle to which the exemption applies. You must display the notice of exemption by fixing it in a prominent position on the dashboard facing upwards or on the windscreen of the vehicle facing outwards. The exemption notice must only be displayed when the person named on the notice is driving the vehicle.

3.5. In the event that the Council turns down your application for an exemption, you can obtain reasons for the refusal and appeal to a sheriff against the decision.

4. Determination of and Duration of Licences

4.1. A licence will normally be issued after the elapse of 42 days from receipt of a valid application. In certain circumstances, for example 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 either one year from the date when it comes into force or three years, dependent upon the application submitted. The Council can also determine a shorter period in any case, dependent upon the circumstances. The licence is not transferable.

5. Licence to be Retained

5.1. 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 Council on payment of the appropriate fee. The licence holder shall produce his/her licence within 5 days of being requested to do so by an officer of Police Scotland, the Scottish Fire and Rescue Service or the Council.

6. Return of Licence

6.1. A driver shall deliver his/her licence and ID badge to the Council:
- Upon ceasing to act or trade as a driver.
- Within 7 days of receiving notice of the coming into effect of a decision of the Council to suspend, revoke or vary the terms of the licence, or the decision of a Court to revoke it.
- Within 7 days of the licence expiring, where the driver was subject to time-limited permission to live and work in the UK.
- Within 7 days of the licence ceasing to have effect, where the driver has become disqualified from carrying out the activity by reason of their immigration status.
7. Notification of Convictions or Material Change of Circumstances

7.1. The licence holder shall notify the Council of any conviction or material change within 14 days of the event. “Material change” means any change of circumstances affecting the licence holder (e.g. change of his/her name or address) 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.

8. Making an Application – Preliminary Requirements

8.1. Any person who wishes to obtain a licence to drive either a taxi or a PHC must:

8.1.1. Have held a full UK or equivalent European Union driving licence throughout the period of 12 months immediately prior to the date of the application.

8.1.2. Be a fit and proper person to hold a licence.

8.1.3. Be 18 years of age or more.

8.1.4. If suffering from any physical or mental condition likely to affect his/her fitness as a driver or which might do so in the future provide, at his/her expense, satisfactory evidence from appropriate medical authorities as to his/her physical and mental fitness to carry out the duties of a taxi or PHC driver.

8.2. Drivers must be clean and tidy in their person and conduct themselves in a proper and civil manner. Drivers must be of an overall appearance which is unlikely to cause offence to any section of the community, taking into account the provisions of the Equality Act 2010.

8.3. Driving Licences

8.3.1. All applicants must submit their current UK or equivalent European Union driving licence. This will usually be a pink photocard issued by DVLA or a European Union country. Older DVLA licences or some European Union driving licences may be on paper only.

8.3.2. All applicants holding UK driving licences must submit a printout of their current electronic driving licence summary held by DVLA or a Share Code to permit Licensing staff to check the information. You can do this by using the ‘View or Share your Driving Licence Information’ service at: https://www.gov.uk/view-driving-licence.

8.3.3. This service allows you to share your driving licence information by creating a one page summary of your record which states all of the following:
   - Your details.
   - Vehicles you can drive.
   - Penalties and disqualifications.

8.3.4. The DVLA has produced a guide on how to share your information, this can be viewed at: https://www.gov.uk/government/publications/how-to-share-your-driving-licence-information.
8.3.5. | At stage 5 of the guide you should use the ‘View, print or save your licence information’ link to create and print the single page summary of your record. You do not have to provide the 8-digit ‘Check Code’ that is also created at stage 5 of the guide, unless you do not have a printer to print your summary.

8.3.6. | The single page printout of your current electronic driving licence summary must be produced no more than 5 days prior to the date your application is lodged with the Licensing service.

8.4. Photographs

8.4.1. | All applicants must submit 3 identical passport photographs to be used for the following:
- An identity badge to be worn by licence holders.
- ID records to be held by the Council and Police Scotland.

8.5. Evidence of Right to Work in the UK

8.5.1. | Any person applying for either of the following must provide evidence of his/her right to work in the UK:
- A taxi or PHC driver’s licence for the first time.
- Renewal of a taxi or PHC driver’s licence, for the first time since 1 December 2016.

8.5.2. | Even if you have renewed your taxi or PHC driver’s licence on previous occasions before 1 December 2016, you must provide evidence of your right to work in the UK on the first occasion when you submit a renewal application on or after 1 December 2016.

8.5.2. | Applicants as specified above must submit one of a number of prescribed documents which show that they have permission to be in the UK and undertake work as a taxi or PHC driver.

8.5.3. | The prescribed documents are listed in Annex A at the end of this document.

8.5.4. | The original documents must be provided by applicants and must be checked in their presence, copied and returned to them. Accordingly, applications as specified above can only be accepted at a personal interview prearranged by the applicant with Licensing staff.

8.5.5. | Where the applicant has no restrictions on their ability to live and work in the UK, the Council will keep a copy of the appropriate prescribed documents for future reference. In those cases, no more immigration checks will be required when the applicant submits further applications to renew their licence.

8.5.6. | Where an applicant has time-limited permission to live and work in the UK, they must not be issued with a licence that is for a duration which exceeds their immigration permission. For as long as they have limited permission to work in the UK, they must be subject to an immigration status check each time they apply to renew their licence.
### 8.6. Criminal Record Checks Outwith UK

| 8.6.1. | Any person applying for a taxi or PHC driver’s licence for the first time who was born outwith the UK must provide a Criminal Record Check from their country of origin. They must also provide a Criminal Record Check from any other country in which they have been resident for 6 months or more. |
| 8.6.2. | Any person applying for a taxi or PHC driver’s licence for the first time who was born in the UK but has lived in any other countries for 6 months or more must provide a Criminal Record Check from those countries. |
| 8.6.3. | In all cases, the Criminal Record Checks provided must have been obtained within the 6 months prior to submitting the application and must be verified by the relevant UK based Embassy or High Commission where the checks were obtained from authorities outwith the UK. |

### 8.7. Medical Information

| 8.7.1. | If an applicant declares on their application form that they suffer from any physical or mental condition likely to affect their fitness as a driver or which might do so in the future, s/he must provide at his/her expense, satisfactory evidence from appropriate medical authorities as to his/her physical and mental fitness to carry out the duties of a taxi or PHC driver. |

### 9. Making an Application – the Application Form and Fees

| 9.1. | Application fees are published at [http://www.orkney.gov.uk/Service-Directory/L/Licences_2.htm](http://www.orkney.gov.uk/Service-Directory/L/Licences_2.htm) (see Related Download on the page). |
| | • Head of Legal Services, Council Offices, School Place, Kirkwall, KW15 1NY. |
| | • Email: licensing@orkney.gov.uk. |
| | • Telephone 01856873535, extensions 2229 or 2232. |
| 9.3. | Application forms must be completed legibly in block capital letters in black ink or typed. All questions must be answered. |

### Previous Convictions

| 9.4. | All applicants must declare convictions (this means any driving licence endorsements, road traffic or other fixed penalties or any other offence), subject to the Rehabilitation of Offenders Act 1974, as amended by the current applicable Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Amendment Orders. This legislation is available at [www.legislation.gov.uk](http://www.legislation.gov.uk). If you are in any doubt as to whether you require to declare convictions, you must obtain independent legal advice. If you wish to declare that you have no convictions, you must write “None” at the question on the form. You cannot leave the question blank. If you do not declare something which should have been declared, you may be prosecuted for failure to declare and this will affect the processing time and procedure for your application. |
## 10. Making an Application – How to Submit a Valid Application – Applicants referred to at Section 8.5 above

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<td><strong>10.1.</strong></td>
<td>Applicants referred to at section 8.5 above <strong>must</strong> prearrange an appointment in advance to ensure that Licensing staff will be available when they would like to attend. Applicants should expect the interview to last approximately 20 to 30 minutes in duration.</td>
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| **10.2.** | These applicants **must** bring the following documentation with them to their interview:  
- Completed application form (refer to section 9.2 above).  
- Evidence of driving licence (refer to section 8.3 above).  
- Evidence of Right to Work in the UK (refer to section 8.5 above and Annex A at the end of this document).  
- 3 identical passport photographs (refer to section 8.4 above).  
- Criminal Record Checks where necessary (refer to section 8.6 above).  
- Medical information where necessary (refer to section 8.7 above).  
- Application fee (refer to section 9.1 above).  
**Incomplete applications cannot be accepted for processing.** |

## 11. Making an Application – How to Submit a Valid Application – Other Applicants

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<td><strong>11.1.</strong></td>
<td>Other applicants who would like Council staff to check their applications must prearrange an appointment in advance to ensure that Licensing staff will be available when they would like to attend. Alternatively, these applicants may submit their applications to the address referred to at section 9.2 above.</td>
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| **11.2.** | These applicants **must** submit the following documentation:  
- Completed application form (refer to section 9.2 above).  
- Evidence of driving licence (refer to section 8.3 above).  
- 3 identical passport photographs (refer to section 8.4 above).  
- Criminal Record Checks where necessary (refer to section 8.6 above).  
- Medical information where necessary (refer to section 8.7 above).  
- Application fee (refer to section 9.1 above).  
**Incomplete applications cannot be accepted for processing.** |

## 12. Processing the Application

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<td><strong>12.1.</strong></td>
<td>Only complete applications, including all necessary documentation and fees, can be accepted for processing. Incomplete applications shall be returned to the applicant.</td>
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<td><strong>12.2.</strong></td>
<td>All applications must be referred to Police Scotland for comment, who have 28 days to submit their report.</td>
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<td><strong>12.3.</strong></td>
<td>Applications described at section 8.5 above may also be referred to the Home Office, if the Council requires to check the applicant’s immigration status and / or right to work in the UK.</td>
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</table>
12.4. Your application must be considered within 3 months of being lodged and the Council must reach a decision on it within 6 months (this will become 9 months from 1 May 2017).

12.5. If your application is granted, you will be issued with your licence and an identification badge. The identification badge should be worn at all times when you are operating as a vehicle driver.

12.6. Under Council policy, where an applicant has held a driving licence for less than 2 years prior to the date of application and / or is under the age of 21 years, the application shall require to be referred to a meeting of the Council’s Licensing Committee. You will be invited to attend the meeting and given the opportunity to address the Committee.

12.7. If, during the processing of your application, the Council receives any objection or representation, we will send a copy to you. Your application and the objection or representation will then be referred to a meeting of the Licensing Committee. You will be invited to attend the meeting and given the opportunity to address the Committee.

12.8. If your application is refused, or granted conditionally, you are entitled to ask the Council within 21 days to give reasons for such refusal, or the imposition of such conditions, and thereafter you are entitled to appeal to the Sheriff against the decision on various grounds. You should seek the advice of a solicitor if matters should get to that stage.

13. Prior Refusal

13.1. If you have applied for and been refused a taxi or PHC driver’s licence, unless your circumstances have altered, your application is unlikely to be granted.

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

14. Data Protection

14.1. The information provided on application forms will be used by the Council to enable decisions to be made on applications. The Council is required to collect the information in terms of legislation. Applicants’ information will be shared with a number of agencies which the Council is obliged to consult before making decisions on applications.


14.3. The Council has published a guide to your rights under Data Protection legislation and how you can exercise these. This information is available on the Council’s website at [http://www.orkney.gov.uk/Council/D/Data-Protection-Policy.htm](http://www.orkney.gov.uk/Council/D/Data-Protection-Policy.htm) or can be requested by contacting the Council directly.
14.4. Information about how the Council will process your personal information is available on the Council’s website at http://www.orkney.gov.uk/Online-Services/privacy.htm.

15. Offences

15.1. The following are criminal offences liable, on summary conviction, to a fine:
- Carrying on an activity for which a licence under the Civic Government (Scotland) Act 1982 is required without such a licence.
- Failing to comply with a condition of a licence.
- Making a false statement when filling in the application form.
- Failing to notify the Council of a material change in the circumstances of a licensee.
- Failing to surrender the licence (1) after it has been suspended, revoked or varied or (2) when the licensee has given up the activity to which it relates.
- Failing to surrender a licence which was issued to a person subject to time-limited permission to live and work in the UK and which has expired.
- Failing to surrender a licence which has ceased to have effect because the person to whom it was granted has become disqualified from carrying out the activity by reason of their immigration status.

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

1 December 2016.
Updated: 2019-07-23 Section 9.4.
Annex A
Home Office – 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.

<table>
<thead>
<tr>
<th>List A: No restrictions on right to work in the UK. The necessary check will be undertaken once and the Council will keep a copy of the relevant documentation. There will be no need to repeat the check when the person subsequently applies to renew their licence.</th>
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<tr>
<td>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.</td>
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<tr>
<td>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.</td>
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<td>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.</td>
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<tr>
<td>4. A Permanent Residence Card issued by the Home Office to the family member of a national of a European Economic Area country or Switzerland.</td>
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<tr>
<td>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.</td>
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<tr>
<td>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.</td>
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<tr>
<td>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.</td>
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<tr>
<td>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.</td>
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<tr>
<td>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.</td>
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<tr>
<td>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.</td>
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List B: Restrictions on right to work in the UK. The licence may be issued (subject to statutory limitations) up to the expiry date of the permission to work in the UK. The applicant's immigration status will need to be checked each time they apply to renew or extend their licence.

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<td>1</td>
<td>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.</td>
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<tr>
<td>2</td>
<td>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.</td>
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<tr>
<td>3</td>
<td>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.</td>
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<tr>
<td>4</td>
<td>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.</td>
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<td>1A</td>
<td>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 6 months from the date of the Certificate of Application.</td>
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<tr>
<td>2A</td>
<td>A Verification issued by the Home Office Evidence and Enquiry Unit to the Council as licensing authority, 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 6 months from the date of the licence decision.</td>
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1 December 2016.
Updated: 2019-07-23 Section 9.4.