

## REPORT

|                                  |             |   |
|----------------------------------|-------------|---|
| To: CORPORATE SERVICES COMMITTEE |             | Subject: CIVIC GOVERNMENT (SCOTLAND) ACT 1982<br>(LICENSING OF BOOKING OFFICES) ORDER<br>2009 |
| From: HEAD OF LEGAL SERVICES     |             |   |
| Date: 22 July 2009               | Ref: JM/GBM |   |

## 1. PURPOSE OF REPORT

- 1.1. To inform the Committee of the introduction of a new mandatory licensing scheme within Scotland and to agree conditions to be attached to licences issued under the scheme and approve an appropriate fee.

## 2. BACKGROUND

- 2.1. The Scottish Parliament approved the Civic Government (Scotland) Act 1982 (Licensing of Booking Offices) Order 2009 on 2 April 2009 and the 2009 Order came into force on 3 April 2009.
- 2.2. The 2009 Order provides that, from 16 November 2009, a licence is required for 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. "Relevant premises" means the premises in relation of which a licence has been granted by virtue of Article 2; and "relevant vehicle" is defined as a vehicle in respect of which a taxi licence or a private hire car licence has been granted in terms of Section 10 of the Civic Government (Scotland) Act 1982 and that licence is in effect. A copy of the Order is attached as Appendix 1 to this report.
- 2.3. The 2009 Order provides that anyone who has applied for such a licence by 16 November 2009 but the application has not been finally determined, will not commit an offence. However, any person who has not applied for such a licence, but carries on the activity after 16 November 2009, will commit an offence.
- 2.4. No licence is required whether the number of relevant vehicles in respect of which bookings are taken does not at anytime exceed 3.
- 2.5. The 2009 Order provides that the following mandatory conditions attach to all licences issued:-
- 2.5.1. That a record be kept of every booking for the hire of a relevant vehicle taken at the premises;
- 2.5.2. That a record be kept of –
- 2.5.2.1. The registration number of the vehicle which was hired as the result of a booking taken at the relevant premises; and
- 2.5.2.2. The name of its driver and the time of that hire; and
- 2.5.2.3. That the holder of the licence shall take all reasonable steps to ensure that any booking taken at the relevant 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.

2.6. The Licensing Authority may also attach further local conditions to the licences.

### 3. **PROPOSAL**

3.1. Application forms have been drafted and local conditions for licences have been formulated within the division.

3.2. Copies of the draft conditions are attached as Appendix 2 of this report.

### 4. **FINANCIAL IMPLICATIONS**

4.1. The Civic Government (Scotland) Act 1982 indicates that fees should be set at a level to recover the cost of processing applications.

4.2. It is proposed on a comparative scale that the application fee be set at £288 for the grant of the licence and £188 for the renewal of the licence for fees in line with that for a second hand dealers licence, indoor sports entertainment licence, public entertainment licence and market operators licence. The present scale of licensing fees are attached as Appendix 3 to this report. Licences will be issued for a period of three years.

### 5. **CONSULTATIONS**

5.1. Applications will be forwarded to Strathclyde Police, the Firemaster, Planning Services, Building Standards and Environmental Health for consideration.

5.2. Environmental Health, Planning and Building Standards Officers will be the officers authorised to inspect premises under the Licensing Scheme.

### 6. **LEGAL ISSUES**

6.1. It is proposed that contentious matters or applications attracting adverse comment or observations will be put before the Corporate Services (Licensing) Sub-Committee for consideration.

6.2. Non-contentious applications will be dealt with under the Council's delegated powers.

### 7. **COMMENCEMENT**

As from 16 November 2009 all persons 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, for four or more such vehicles, within North Lanarkshire Council area will require a licence to carry on their business.

## 8. RECOMMENDATIONS

- 8.1. It is recommended that the Committee notes the introduction of a mandatory licensing scheme for taxi/private hire booking offices as of 16 November 2009 and -
- 8.1.1. Approves the conditions attached to the report;
  - 8.1.2. Agrees that the application fee for grant be set at £288 and the renewal fee set at £188;
  - 8.1.3. Agrees that Environmental Health, Planning and Building Standards Officers will be authorised officers for the purpose of inspecting premises which are the subject of applications for licences under the scheme;
  - 8.1.4. Agrees that any application of a contentious nature or attracting adverse comment or observations be considered by the Corporate Services (Licensing) Sub-Committee;
  - 8.1.5. Agrees that any application of a non-contentious nature or not attracting adverse comment or observations be granted under the Council's delegated powers; and
  - 8.1.6. Authorises officers to issue a press release and mail shot to advise businesses of the forthcoming requirement.



**Head of Legal Services**

Members seeking further information on the contents of this report are asked to contact Mitch Kerr, Chief Solicitor (District Courts and Licensing) at extension 2371.

SCOTTISH STATUTORY INSTRUMENTS

2009 No. 145

LICENCES AND LICENSING

The Civic Government (Scotland) Act 1982 (Licensing of Booking Offices) Order 2009

*Made*

*2nd April 2009*

*Coming into force*

*3rd April 2009*

The Scottish Ministers make the following Order in exercise of the powers conferred by section 44(1)(b) and (2) of the Civic Government (Scotland) Act 1982(1) and all other powers enabling them to do so.

In accordance with section 44(3) of that Act, a draft of this Order has been laid before and approved by resolution of the Scottish Parliament.

**Citation, commencement and interpretation**

1.—(1) This Order may be cited as the Civic Government (Scotland) Act 1982 (Licensing of Booking Offices) Order 2009 and comes into force on the day after the day on which it is made.

(2) In this Order—

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

“relevant premises” means the premises in relation to which a licence has been granted by virtue of article 2; and

“relevant vehicle” means a vehicle in relation to which a taxi licence or private hire car licence has been granted in terms of section 10 of the Act(2) and that licence is in effect.

**Licensing of booking offices**

2.—(1) The activity specified in paragraph (2) is designated as an activity for which a licence under Part I of the Act shall be required, but no such licence shall be required—

- (a) in respect of the carrying on of that activity before 16th November 2009; or
- (b) where the number of relevant vehicles in respect of which bookings are taken does not at any time exceed 3.

(2) The activity referred to in paragraph (1) 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.

**Application of Part I of the Act**

3. Part I of the Act shall have effect, subject to the modifications specified in the Schedule, for the purposes of the licensing of the activity designated by article 2.

**Transitional provision**

4.—(1) A person who on or after 16th November 2009 carries on the activity designated by article 2 without a licence under Part I of the Act shall not be guilty of an offence under section 7(1) of the Act(3) if—

- (a) that person made an application to the licensing authority before that date for the grant of a licence under Part I of the Act in respect of the activity being carried on by the person; and

- (b) that application has not yet been finally determined.
- (2) For the purposes of paragraph (1)(b), an application is finally determined—
  - (a) when it is withdrawn by the applicant;
  - (b) when it is refused by the licensing authority and the period of 28 days specified in paragraph 18(4) of Schedule 1 to the Act expires without an appeal against the refusal being made to the sheriff; or
  - (c) in a case where an appeal is made against a refusal by the licensing authority, when that appeal is disposed of.
- (3) For the purposes of paragraph (2)(c), an appeal is disposed of—
  - (a) when it is abandoned by the appellant; or
  - (b) when a decision on it is made by the sheriff or a higher court and any period for making a subsequent appeal to a higher court expires without such a subsequent appeal being made.

STEWART STEVENSON  
Authorised to sign by the Scottish Ministers

St Andrew's House,  
Edinburgh  
2nd April 2009

## SCHEDULE APPLICATION OF PART I OF THE ACT

Article 3

1. Part I of the Act shall have effect subject to the modifications in paragraphs 2 to 5 of this Schedule.
2. In section 6 (powers of entry to and search of unlicensed premises)—
  - (a) in subsections (1) and (2), after "constable" in each place insert "(or any authorised officer of the licensing authority)";
  - (b) in subsection (3)—
    - (i) after "uniform" insert "(and where the person executing the warrant is an authorised officer of a licensing authority, that officer)"; and
    - (ii) after "constable" where it second occurs insert "(or such authorised officer of the licensing authority)"; and
  - (c) in subsection (4)(4)—
    - (i) after "constable" where it first occurs insert "(or authorised officer of the licensing authority)"; and
    - (ii) after "constable" where it second occurs insert "(or such authorised officer)".
3. In paragraph 5 (disposal of applications for the grant and renewal of licences) of Schedule 1(5)—
  - (a) in sub-paragraph (1)(a), for "unconditionally" substitute "subject to the mandatory conditions specified in sub-paragraph (1A) below";
  - (b) in sub-paragraph (1)(b), for "conditions" substitute "those mandatory conditions and such conditions as are specified in sub-paragraph (2) below"; and
  - (c) after sub-paragraph (1), insert—

"(1A) The mandatory conditions referred to in sub-paragraph (1)(a) above are—

    - (a) that a record be kept of every booking for the hire of a relevant vehicle taken at the relevant premises;
    - (b) that a record be kept of—
      - (i) the registration number of the vehicle which was hired as the result of a booking taken at the relevant premises; and
      - (ii) the name of its driver at the time of that hire; and
    - (c) that the holder of the licence shall take all reasonable steps to ensure that any booking taken at the relevant 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(6) and that licence is in effect.”.

4. After paragraph 19 (interpretation) of Schedule 1 insert—

“20. In this Schedule, “relevant premises” and “relevant vehicle” have the same meaning as in the Civic Government (Scotland) Act 1982 (Licensing of Booking Offices) Order 2009.”.

- 
- (1) 1982 c. 45; the functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46). Back [1]
  - (2) Section 10 was amended by the Transport Act 1985 (c. 67), Schedule 7, paragraph 23(5). Back [2]
  - (3) Section 7(1) was amended by the Entertainments (Increased Penalties) Act 1990 (c. 20), section 2 (1); the reference in section 7(1) to a fine not exceeding £500 became a reference to a fine not exceeding level 4 on the standard scale by virtue of section 289G of the Criminal Procedure (Scotland) Act 1975 (c. 21), which section by consolidation became section 225 of the Criminal Procedure (Scotland) Act 1995 (c. 46). Back [3]
  - (4) The reference in section 6(4) to a fine not exceeding £200 became a reference to a fine not exceeding level 3 on the standard scale by virtue of section 289G of the Criminal Procedure (Scotland) Act 1975 (c. 21), which section by consolidation became section 225 of the Criminal Procedure (Scotland) Act 1995 (c. 46). Back [4]
  - (5) Paragraph 5 of Schedule 1 was amended by S.S.I. 2005/383 and S.S.I. 2006/475. Back [5]
  - (6) Section 13 was repealed in part by the Roads (Scotland) Act 1984 (c. 54), Schedule 11. Back [6]

## APPENDIX 2

### DRAFT CONDITIONS OF LICENCE

#### NORTH LANARKSHIRE COUNCIL

#### CIVIC GOVERNMENT (SCOTLAND) ACT 1982

#### CIVIC GOVERNMENT (SCOTLAND) ACT 1982 (LICENSING OF BOOKING OFFICES) ORDER 2009

#### TAXI-PRIVATE HIRE CAR BOOKING OFFICES LICENCES

#### CONDITIONS

##### General

- (1) The licence permits the use of the premises specified therein as a place for the carrying on of a business, which consist to any extent of the taking of bookings, by any means of communication, for members of the public for a hire of a relevant vehicle as defined in the licence. The licence must be exhibited in the premises in such a place and in such a manner as to be easily read by the public.
- (2) The Licence Holder or, in the absence of the Licence Holders, a person authorised by them, must be in charge of the premises at all times and must not be engaged in duties which might prevent the exercising of general supervision of the premises.
- (3) The Licence Holder shall be liable for any act or omission of their servants, agents or lessees in the contravention of, or non-compliance with, any of these conditions.
- (4) The Licence Holder shall ensure that the premises are covered by an adequate policy of third party liability insurance and shall exhibit to the Council, on demand, evidence that the premiums in respect of such policy have been timeously paid.
- (5) The Licence Holder shall not make, cause or permit to be made any structural alteration to the premises unless and until details of the proposed works have been submitted by the Licence Holder to the Licensing Authority and their works approved by the Council in terms of Paragraph 9 (2) of Schedule 1 to the Act.
- (6) All plans of the premises approved by the Council will be retained by the Licensing Authority.
- (7) The Licence Holder must surrender the licence if or when called upon to do so by the Licensing Authority for the purpose of alteration in accordance with any decision of the Licensing Authority.

##### Mandatory Conditions for Booking Offices

- (8) The Licence Holder must keep a record of every booking for the hire of the relevant vehicle taken at the relevant premises.
- (9) The Licence Holder must keep a record of -
  - (a) The registration number of the vehicle which was hired as a result of a booking taken at the relevant premises; and
  - (b) The name of its driver at the time of the hire.

- (10) The Licence Holder shall take all reasonable steps to ensure that any booking taken at the relevant premises from a member of the public for the hire of a relevant vehicle results in the hirer of a vehicle which is -
- (a) The relevant vehicle;
  - (b) Being driven by a person who holds a taxi driver's licence or a private hire car driver's licence granted under Section 13 of the Act, and that licence is in effect.

#### **Local Conditions for Booking Offices**

- (11) The Licence Holder shall ensure that relevant premises are not used for any illegal or otherwise unlawful purpose.
- (12) The Licence Holder shall ensure that, the relevant premises is kept in a clean and tidy condition.
- (13) The Licence Holder shall ensure that every booking for a taxi or private hire vehicle that has been accepted is fulfilled at the time and location specified, unless prevented by sufficient cause.
- (14) The Licence Holder shall keep a record of the reasons why any bookings accepted were not fulfilled at the time and location specified.
- (15) The Licence Holder shall produce a policy or procedure for dealing with complaints from members of the public and from persons whose bookings have not been accepted or fulfilled. The Licence Holder shall ensure that all staff are aware of this policy or procedure.
- (16) The Licence Holder shall keep a record of all complaints made and how they were dealt with.
- (17) The Licence Holder shall not ask the driver of a taxi or private hire vehicle to do anything which would result in him/her committing a breach of the conditions attached to their licence.
- (18) Advertisements regarding alcoholic liquor and tobacco products, sexual services, any service considered to be illegal or immoral and anything considered to be political or religious will not be permitted on the relevant premises.
- (19) The records detailed in Conditions (9), (10), (14), (15) and (16) above, may be kept electronically, but the licence holder shall ensure that there is a printed version kept within the premises at all times.
- (20) The Licence Holder shall keep all records for a period of three years, which records must be made available to the Licensing Authority, an authorised officer and/or to the Police on demand.
- (21) Definitions:-

"the Act" means the Civic Government (Scotland) Act 1982;

"the Licensing Authority" means a Council constituted under Section 2 of the Local Government etc. (Scotland) Act 1994 and for the purpose of these conditions means North Lanarkshire Council and any employee, officer or agent authorised to act for and on its behalf;

"the Police" means Strathclyde Police and any employee, officer or agent authorised to act for and on its behalf;

"Licence Holders" means the person, persons, company, firm, public body or voluntary organisation named in the licence;

"Relevant Premises" means the premises specified in the licence;

"Relevant Vehicle" means a vehicle in respect of which a taxi licence or a private hire car licence has been granted in terms of Section 10 of the Act and that licence is in effect.

APPENDIX 3

CIVIC GOVERNMENT LICENSING/MISCELLANEOUS FEES  
FROM 1<sup>st</sup> April 2009

TEMPORARY LICENCES:

|   |       |
|---|-------|
| STANDARD FEE (not advertised)                           | £ 93  |
| STANDARD FEE (advertised)                               | £ 288 |
| Special Applications - Fee to be advised on application |       |

|  |       |
|--|-------|
| VARIATIONS (PREMISES)                                      | £ 269 |
| VARIATIONS (LICENCE HOLDER/VEHICLE)                        | £ 33  |
| SUBSTITUTE VEHICLE (Taxi/PH Car Plate – excludes Test Fee) | £ 26  |
| REPLACEMENT BADGE/LICENCE                                  | £ 10  |
| REPLACEMENT PLATE  | £ 26  |

|                                      |           |
|--------------------------------------|-----------|
| CINEMA LICENCE RENEWAL               | £84       |
| PUBLIC CHARITABLE COLLECTION PERMITS | No Charge |
| REGISTRATION OF SOCIETY              | £40       |
| RENEWAL OF REGISTRATION OF SOCIETY   | £20       |

|               |              |
|---------------|--------------|
| COPY REGISTER | 10p per page |
|---------------|--------------|

CIVIC GOVERNMENT LICENSING/MISCELLANEOUS FEES  
FROM 1<sup>st</sup> APRIL 2009

|   |       |
|---|-------|
| TAXI DRIVER (GRANT)                       | £ 160 |
| TAXI DRIVER (RENEWAL)                     | £ 146 |
| PRIVATE HIRE DRIVER (GRANT)               | £ 146 |
| PRIVATE HIRE DRIVER (RENEWAL)             | £ 146 |
| TAXI OPERATORS (GRANT)                    | £ 444 |
| TAXI OPERATORS (RENEWAL)                  | £ 390 |
| PRIVATE HIRE CAR (GRANT)                  | £ 289 |
| PRIVATE HIRE CAR (RENEWAL)                | £ 289 |
| LATE HOURS CATERING (GRANT)               | £ 384 |
| LATE HOURS CATERING (RENEWAL)             | £ 252 |
| STREET TRADERS EMPLOYERS STATIC (GRANT)   | £ 269 |
| STREET TRADERS EMPLOYERS STATIC (RENEWAL) | £ 188 |
| STREET TRADERS EMPLOYERS MOBILE (GRANT)   | £ 188 |
| STREET TRADERS EMPLOYERS MOBILE (RENEWAL) | £ 188 |
| STREET TRADERS EMPLOYEE (GRANT)           | £ 119 |
| STREET TRADERS EMPLOYEE (RENEWAL)         | £ 119 |
| SECOND HAND DEALERS (GRANT)               | £ 288 |
| SECOND HAND DEALERS (RENEWAL)             | £ 188 |
| PUBLIC ENTERTAINMENT (GRANT)              | £ 288 |
| PUBLIC ENTERTAINMENT (RENEWAL)            | £ 188 |
| INDOOR SPORTS ENTERTAINMENT (GRANT)       | £ 288 |
| INDOOR SPORTS ENTERTAINMENT (RENEWAL)     | £ 188 |
| METAL DEALERS (GRANT)                     | £ 288 |
| METAL DEALERS (RENEWAL)                   | £ 188 |
| MARKET OPERATORS (GRANT)                  | £ 288 |
| MARKET OPERATORS (RENEWAL)                | £ 188 |
| WINDOW CLEANERS (GRANT)                   | £ 119 |
| WINDOW CLEANERS (RENEWAL)                 | £ 119 |