

5 July 2021

ISBC Policy and Strategy,
HMRC,
Room 3/39,
100 Parliament Street,
London,
SW1A 2BQ.

Dear Sirs

Hidden economy conditionality – Northern Ireland and Scotland

The Institute of Licensing (IoL) is the professional body for licensing practitioners in the UK. Our membership includes practitioners from local authority, police, industry, and legal sectors across the UK.

The IoL has previously responded to the consultation concerning tax conditionality in England and has considered the proposals for Scotland and Northern Ireland, which this response addresses.

Northern Ireland

In Northern Ireland, the responsibility for taxi licensing is outside of the local authority regulatory scope, and the tax conditionality proposals do not extend to scrap metal due to the absence of a distinct licensing regime. As a result, we do not comment specifically in relation to the proposals for tax conditionality in Northern Ireland.

Scotland

The basic principles of the proposals in England as we understand it are:

- New applicants are signposted to HMRC guidance on tax obligations and obtain confirmation that the applicant is aware of the guidance.
- Renewal applications will require proof of completed tax checks. Licensing authorities will be unable to complete the renewal process until such proof is obtained.

When responding to the initial proposals in England, the IoL's main concerns were to ensure that:

- The process is as simple as possible for both licensing authorities and licence applicants with clear guidance and signposting.
- Assistance is available to licence applicants where needed to assist them in completing their tax checks, either online or manually.
- Licensing authorities are not faced with licence appeals (i.e., not required to refuse licences due to the absence of proof of tax checks).

The consultation questions are below, and any additional comments included:

Question 1. Do you have any comments about, or evidence of, the suitability of applying the existing conditionality policy model to taxi driver licensing in Northern Ireland and taxi and private hire car drivers, booking offices and metal dealers in Scotland?

We consider that the Government will need to satisfy itself as to whether the conditionality policy model may conflict with the underlying principal purposes of the Civic Government (Scotland) Act 1982. The Scottish licensing system sits within separate legislative and jurisprudential soil to that in England and Wales. There is in our view a question as to whether the 1982 Act and provisions can be put to a non-licensing, ulterior motive.

Question 2. Do you agree that we should seek to apply conditionality using the same model as England and Wales, if not, why not, and what alternative model do you suggest?

Subject to our comment above, we consider that the model for England and Wales should be the same in Scotland and Northern Ireland for consistency and simplicity.

Question 3. Are there any features of the licensing regimes or processes used by licensing bodies in administering them, which are incompatible with conditionality or the policy model outlined in chapter 2?

The Scottish licensing system has a deemed grant provision. If an application has not been determined within certain timescales, the Act requires it to be granted. An assessment of how this provision might clash with the conditionality policy model needs to be undertaken.

Question 4. Do you have any comments on the suitability of safeguards outlined in chapter 2 and are there any further safeguards needed in addition to those outlined in chapter 2 for the licences outlined in chapter 3?

When responding to the proposals for England, the IoL also asked about a 'grace period' arrangement for licence renewal applications, to enable initial signposting and a period of time allowed to complete their tax check. The forthcoming arrangements for England provide a safeguard to protect applicants from undue delays, but only where the delay is on the part of HMRC.

Question 5. Are there any licence holders who may need additional support to engage with the tax check and what support do they need?

We consider it highly likely that some applicants will need additional support. This may be due to inability or lack of confidence with online systems, fear of reprisals for previous non-compliance and general uncertainty and fear of the tax regime. We also consider there to be a real concern over what might be termed digital exclusion. It is our understanding that the demographic of these licence types may have difficulty where the process is entirely digital.

Question 6. Do you have any comments about, or evidence of, any impacts (positive or negative) of applying tax conditionality to taxi driver licensing in Northern Ireland and the licensing of taxi and private hire car drivers, booking offices and metal dealers in Scotland?

No comment.

Question 7. Do you have any comments about excluding taxi operators in Northern Ireland from conditionality, in view of the existing checks undertaken?

No comment.

The Institute of Licensing is pleased to respond to this consultation and would be happy to work with HMRC in taking forward the final proposals in due course. Our membership includes highly experienced licensing

practitioners within local government as well as the leading licensing lawyers across the UK. In addition, our communication network puts us in an excellent position to disseminate information on forthcoming changes, or to ask questions about any particular areas where further clarity is needed.

Yours faithfully



Sue Nelson
Executive Officer