

Vehicle Operator's Licence – Guidance Notes

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. Any person who requires further information should consult the Head of Legal Services, as undernoted, or a solicitor.

1.	Geographical Scope of Taxi and Private Hire Car 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.	Passenger Numbers.	
2.1.	Local authority licensing schemes can only license vehicles capable of carrying a maximum of 8 passengers. Vehicles capable of carrying more than 8 passengers cannot be licensed by the local authority.	
3.	Vehicle Definitions.	
3.1.	“Taxi” means a hire car which is engaged, by arrangements made in a public place between the person to be conveyed in it (or a person acting on his/her behalf) and its driver for a journey beginning there and then.	
3.2.	“Private hire car” (PHC) means a hire car other than a taxi.	
3.3.	“Hire car” means a motor vehicle with a driver (other than a public service vehicle) which is, with a view to profit, available for hire by the public for personal conveyance.	
3.4.	The main differences between taxis and private hire cars are:	
	Taxi.	Private Hire Car.
	<ul style="list-style-type: none"> • May display a taxi sign on top of the vehicle. • May wait on a taxi stance for trade. • May pick up passengers on the street without prior arrangement. • Must have a meter fitted in the vehicle. • Must be driven by a licensed taxi driver. 	<ul style="list-style-type: none"> • Cannot have a sign or other advertisement that suggests it is available for hire as a taxi. • Cannot wait on a taxi stance. • Can only pick up passengers by prior arrangement. • May have a meter fitted in the vehicle. • Must be driven by either a licensed taxi driver or a licensed private hire car driver.
4.	Operator's Licence and Driver's Licence.	
4.1.	The vehicle and the driver each require to be separately licensed.	

4.2.	The licence for the vehicle is referred to in these notes as an “operator’s” licence and each vehicle operated as a taxi or PHC requires a separate licence. Anyone driving a taxi or PHC must obtain the appropriate driver’s licence.
4.3.	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.
4.4.	Separate guidance notes, application forms and licence conditions for drivers are available in Related Downloads from http://www.orkney.gov.uk/Service-Directory/T/Taxi-and-Private-Hire-Car-Drivers.htm .
5.	Operator’s Licence.
5.1.	Any vehicle proposed to be used as a taxi or PHC must: <ul style="list-style-type: none"> • be equipped to carry a minimum of 4 adult seated passengers (up to a maximum of 8 adult seated passengers) in safety and comfort, with the exception of motorised tricycles to be licensed for private hire; • have a minimum of 4 doors capable of being opened from the inside, with the exception of motorised tricycles to be licensed for private hire; • be fitted with a seat belt for each passenger; • pass an initial inspection to an acceptable standard of safety and comfort; • pass a similar inspection each year on the anniversary of the initial test, if the licence has effect for a period in excess of one year; • pass a similar inspection at renewal of licence; and • be subject to random inspection on an ad hoc basis within any 12 month period.
6.	Vehicle Inspections.
6.1.	The Council has approved standards for vehicles to be licensed as taxis or PHCs which it believes to be acceptable in terms of safety and comfort. A copy of the standards will usually accompany this document, but can be obtained from the Head of Legal Services, as undernoted, or in a Related Download from http://www.orkney.gov.uk/Service-Directory/T/Taxi-and-Private-Hire-Cars.htm . Any vehicle in respect of which an application is submitted must first pass a test at the Council’s approved testing garage to certify that the vehicle has met the required standard.
6.2.	The Council has an approved testing garage – details are published in the standards document referred to above. Applicants must contact the garage to arrange a suitable appointment to have their vehicle tested. The fees for vehicle testing are paid directly to the testing garage before the test will be carried out – refer to current fees available in a Related Download about Vehicle Inspection Standards from http://www.orkney.gov.uk/Service-Directory/T/Taxi-and-Private-Hire-Cars.htm .

7.	Taximeters.
7.1.	All taxis must have a taximeter which has been tested and approved by the testing garage. PHCs are not required to have a taximeter, but may fit one if desired. If fitted it must be tested and approved by the testing garage.
7.2.	For applications for the first grant of licence, taximeters cannot be fitted until the Council is in a position to confirm that a taxi or PHC licence can be issued.
7.3.	An exception to this position would be where a vehicle is purchased, having previously been used as a taxi or PHC and a taximeter remains fitted. There would be no objection to the existing taximeter being used, provided it was capable of being configured to suit the current local scales for maximum taxi fares and charges.
8.	Obligatory Test Certificates (MOT).
8.1.	Operators should be aware that, unlike ordinary vehicles which require an MOT after three years, taxis require an MOT certificate after one year of the date of first registration, in accordance with section 47 of the Road Traffic Act 1988 and annually thereafter.
9.	Conditions.
9.1.	The Council may attach reasonable conditions to taxi and PHC 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 in a Related Download from http://www.orkney.gov.uk/Service-Directory/T/Taxi-and-Private-Hire-Cars.htm .
10.	Determination of and Duration of Licences.
10.1.	A licence will normally be issued after the elapse of 42 days from receipt of an 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.
11.	Return of Licence.
11.1.	The licence holder shall deliver his/her licence and licence plates to the Council: <ul style="list-style-type: none"> • upon ceasing to act or trade as an operator; • within 7 days of receiving notice of the coming into effect of a decision of the-Council to suspend or vary the terms of the licence, or the decision of a Court to revoke it.

12.	Notification of Convictions or Material Change of Circumstances.
12.1.	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 (for example, 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.
13.	Notification of Material Alterations.
13.1.	The licence holder shall not make or permit to be made any material change to the vehicle without the prior written consent of the Council unless in accordance with a requirement imposed by or in pursuance of any enactment other than Parts 1 or 2 of the Civic Government (Scotland) Act 1982. If in doubt as to whether consent is required, contact the Council.
14.	Application Form and Fees.
14.1.	Application forms are available online from a Related Download at http://www.orkney.gov.uk/Service-Directory/T/Taxi-and-Private-Hire-Cars.htm or from: <ul style="list-style-type: none"> • Head of Legal Services, Council Offices, School Place, Kirkwall, Orkney KW15 1NY; • Email: licensing@orkney.gov.uk; • Telephone 01856 873535, extensions 2229 or 2232.
14.2.	Applications must be lodged with the Head of Legal Services, Corporate Services, Orkney Islands Council at the address above no later than 6 weeks before the first day of the commencement of the activity.
14.3.	Applicants who would like Council staff to check their applications must arrange an appointment in advance to ensure that staff will be available when they would like to come in.
14.4.	Application forms must be completed legibly in block capital letters in black ink or typed. All questions must be answered.
14.5.	Completed application forms must be returned to the address above along with the appropriate fee published at http://www.orkney.gov.uk/Service-Directory/L/Licences_2.htm (see Related Download on the page) and the following documentation: <ul style="list-style-type: none"> • insurance documentation appropriate to the type of licence applied for; • vehicle registration document (V5); • letter or email from the holder of the V5 if appropriate (see section 14.7 below); • MOT Certificate; and • vehicle inspection report – obtainable from the inspecting garage.

14.6.	The applicant may hold the V5. Where more than one name appears on the application, the V5 shall be in the name of at least one of the persons whose names will appear on the licence.
14.7.	Where the applicant does not hold the V5 in relation to the vehicle, s/he or they shall provide confirmation in writing (email will be sufficient) from the holder of the V5 that they are aware that the vehicle will be used as a taxi or private hire car. A copy of the V5 will be required.
14.8.	The applicant shall hold the certificate of insurance in relation to the vehicle required by the Road Traffic Act 1988. Where more than one name appears on the application, the certificate of insurance shall be in the name of at least one of the persons whose names will appear on the licence.
14.9.	Applicants must declare any convictions, subject to the terms of the Rehabilitation of Offenders Act 1974. This legislation is available at www.legislation.gov.uk . If applicants are in any doubt as to whether to declare convictions, they must obtain independent legal advice. If applicants wish to declare that they have no convictions, they must write "None" at the question on the form. They cannot leave the question blank. If applicants do not declare something which should have been declared, they may be prosecuted for failure to declare and this will affect the processing time and procedure for their application.
14.10.	Incomplete applications shall be returned to the applicant.
15.	Processing the Application.
15.1.	All applications must be referred to Police Scotland for comment.
15.2.	Applications must be considered within 3 months of being lodged and the Council must reach a decision on it within 9 months.
15.3.	If an application is to be granted, the applicant will be notified accordingly. Prior to issuing any taxi licence or PHC licence where the operator chooses to fit a taximeter, the taximeter must be fitted and tested. The applicant will be advised when to contact the garage to arrange for this work to be carried out. The fees for meter work are paid directly to the garage before the work will be carried out – refer to current fees available in a Related Download about Vehicle Inspection Standards from http://www.orkney.gov.uk/Service-Directory/T/Taxi-and-Private-Hire-Cars.htm .
15.4.	On confirmation from the testing garage that the taximeter has been fitted and is in working order, arrangements will be put in place to issue the relevant taxi or PHC licence and vehicle licence plates to the applicant. The applicant will be advised when the licence are plates are ready for collection.
15.5.	If, during the processing of an application, the Council receives any objection or representation, we will send a copy to the applicant. The application and the objection or representation will then be referred to a meeting of the Licensing Committee. The applicant will be invited to attend the meeting and given the opportunity to address the Committee.

15.6.	If an application is refused, or granted conditionally, the applicant is entitled to ask the Council within 21 days to give reasons for such refusal, or the imposition of such conditions, and thereafter is entitled to appeal to the Sheriff against the decision on various grounds. Applicants should seek the advice of a solicitor if matters should get to that stage.
16.	Random Vehicle Testing.
16.1.	The Council will contact the licence holder to advise that a random vehicle inspection is required that day. The licence holder will be required to contact the inspecting garage immediately to arrange the random inspection of the vehicle. The fees for random vehicle testing are paid directly to the testing garage before the test will be carried out – refer to current fees available in a Related Download about Vehicle Inspection Standards from http://www.orkney.gov.uk/Service-Directory/T/Taxi-and-Private-Hire-Cars.htm .
16.2.	Similarly the fees for subsequent inspections or tests, for example on failure of a random test, are paid directly to the testing garage before the test will be carried out – refer to current fees available in a Related Download about Vehicle Inspection Standards from http://www.orkney.gov.uk/Service-Directory/T/Taxi-and-Private-Hire-Cars.htm .
17.	Substitution of Vehicles.
17.1.	The holder of a taxi or PHC licence may, during the currency of the licence, substitute a vehicle for the vehicle in respect of which the licence was originally granted. The same requirements with regard to documentation, fees and fitting of taximeters apply as with a licence application, except that applications do not require to be referred to Police Scotland for comment (refer to sections 14 and 15 above).
18.	Prior Refusal.
18.1.	If applicants have applied for and been refused a taxi or PHC licence, unless their circumstances have altered, their applications will be unlikely to be granted.
18.2.	If refused, applicants cannot apply for the same kind of licence in respect of the same activity or for the same vehicle within one year of that refusal unless there has been a material change in circumstances.

19.	Offences.
19.1.	<p>The following are criminal offences liable, on summary conviction, to a fine:</p> <ul style="list-style-type: none"> • 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 obtain the consent of the Council before making any material change to the vehicle to which the licence relates; • failing to surrender the licence (1) after it has been suspended or varied or (2) when the licensee has given up the activity to which it relates; • failing to surrender the licence and licence plates within 28 days of selling or otherwise disposing of the vehicle to which the licence relates.
19.2.	The above list is not exhaustive and reference should be made to the Civic Government (Scotland) Act 1982 for all offences under the Act.
20.	Other Consents
20.1.	Applicants must be aware that obtaining a licence to operate a vehicle may be only one of a number of consents which they may require. Vehicles are operated from premises, which may include residential houses. Planning consent for operation from any premises may be required. Further, if the premises, including any residential house, are leased by the applicant, the consent of the landlord will be required. It is the responsibility of the applicant to ensure that they obtain all necessary consents.
21.	Data Protection
21.1	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.
21.2.	<p>The Council is obliged to make available some information submitted on application forms. The Council publishes electronic public registers in the Related Downloads section of the following Council webpage:</p> <p>http://www.orkney.gov.uk/Service-Directory/C/Civic-Government-Licences---Approved-Licence-Lists.htm.</p>
21.3.	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 or can be requested by contacting the Council directly.
21.4.	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 .

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