



Law Society
of Scotland

HM Revenue and Customs Consultation Response

Extending tax checks to licences in Scotland and
Northern Ireland

August 2022



Introduction

The Law Society of Scotland is the professional body for over 12,000 Scottish solicitors.

We are a regulator that sets and enforces standards for the solicitor profession which helps people in need and supports business in Scotland, the UK and overseas. We support solicitors and drive change to ensure Scotland has a strong, successful and diverse legal profession. We represent our members and wider society when speaking out on human rights and the rule of law. We also seek to influence changes to legislation and the operation of our justice system as part of our work towards a fairer and more just society.

Our Licensing Law subcommittee welcomes the opportunity to consider and respond to the HM Revenue and Customs (HMRC) on the Extending tax checks to licences in Scotland and Northern Ireland (the consultation.¹)

The Licensing Law sub-committee is made up of members who represent the interests of the industry and are involved in advising individuals and organisations in relation to making licensing applications. They also include those working in-house in relation to granting, management and enforcement measures.

When the draft legislation comes into force, they anticipate being responsible for advising clients about the implications of these tax checks. From the local authority perspective, they would be involved in putting in place the relevant tax checks and in administering the scheme.

The sub-committee has the following comments to put forward for consideration.

General comments on the proposed draft legislation

We note that much of what is contained in the draft legislation reflects the current practice in England and Wales since April 2022 under the Finance Act 2021².

The consultation seeks views on draft legislative measures to extend existing tax checks for taxi and scrap metal licences in Scotland and Northern Ireland. The draft legislation proposes changes to the Civic Government (Scotland) Act 1982³ to create new license categories and to impose additional conditions on applicants completing checks that confirm that they are appropriately registered for tax from 1 April 2023. It sets out the intention to introduce these new tax checks to tackle the hidden economy in Scotland.

Licensing is itself a highly specialist branch of law. It seems both sensible and vital for those such as our members being Scottish solicitors who will be primarily involved in the implementation of the draft legislation to be able to comment fully on what is being proposed. That is true whether as those involved as

¹ [Extending tax checks to licences in Scotland and Northern Ireland - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/consultation-on-extending-tax-checks-to-licences-in-scotland-and-northern-ireland)

² [Finance Act 2021 \(legislation.gov.uk\)](https://www.legislation.gov.uk/uk/acts/2021/1)

³ [New tax checks for licence renewal applications in Scotland and Northern Ireland - draft legislation \(publishing.service.gov.uk\)](https://www.publishing.service.gov.uk/government/consultations/new-tax-checks-for-licence-renewal-applications-in-scotland-and-northern-ireland-draft-legislation)

clerks to the Licensing Boards who anticipate, as a result of this draft legislation, that their already heavy workload will increase substantially.

We also note that the draft legislation will impact upon those members who are responsible for advising their clients on the implications of the proposed changes. We are of the firm view that the draft legislative changes will undoubtedly lead to delays with current business and other licencing applications (for example, liquor licensing, premises licences etc). This will have a damaging financial impact on projects being developed in Scotland, particularly in the aftermath of the Coronavirus pandemic.

The draft legislation will require Licensing Boards, through the Local Authorities and others, to be involved in tax checks that, in our view, extend way beyond the current arrangements for licensing. The aim of the proposed scheme is to address the hidden economy which consists of individuals and businesses with sources of taxable income that are entirely hidden from UK tax authorities. As a result, we are of the firm belief that these checks should properly be undertaken by HMRC rather than the hard pressed Licensing Departments of Local Authorities in Scotland.

We would also caution that these legislative changes will need to be the subject of considerable advice and publicity by HMRC before any legislation comes into force.

We query how the UK Government will ensure that these changes are adequately signposted to individual taxi operators, drivers and scrap metal dealers. We note that in some cases, individual drivers are not always actively involved with their operator or associations. In some areas of Scotland, there are no associations. It is therefore imperative that these changes need to be explained, well in advance of their coming into force to prevent delays in issuing licences and to prevent further administrative burden on the Licencing Clerks.

For further information, please contact:

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