

GREATER LONDON AUTHORITY ACT 1999
METROPOLITAN PUBLIC CARRIAGE ACT 1869

The London Cab Order (No. 2) 2016

Made *1 December 2016*

Coming into force *1 December 2016*

Transport for London, in exercise of the powers conferred on it by section 8 of the Metropolitan Public Carriage Act 1869(a) and of all other powers enabling it in that behalf, hereby makes the following Order:—

1 Citation and commencement

- (1) This Order may be cited as the London Cab Order (No. 2) 2016.
- (2) This Order shall come into force on 1 December 2016.

2 Preliminary

The London Cab Order 1934(b) (“the Principal Order”) shall be further amended in accordance with the following provisions of this Order.

3 Amendment of paragraph 25

- (1) Paragraph 25 of the Principal Order (Grounds for Refusal of Cab-drivers’ Licences) shall be amended as follows.
- (2) For paragraph 25 substitute –

“(1) Transport for London may in its discretion refuse to grant a cab-drivers’ licence--

(a) if the applicant fails to satisfy Transport for London that he is of good character and fit to act as a cab-driver,

(a) 1869 c. 115; a relevant amendment is made by the Greater London Authority Act 1999 (c. 29), Schedule 20, paragraph 5.

(b) S.R and O 1934 No 1346; relevant amending instruments are S.I. 1999/1117 and 3250, 2000/1276 and 1666, the London Cab Order 2001, the London Cab (No. 2) Order 2001, the London Cab Order 2002, the London Cab Order 2003, the London Cab Order 2004, the London Cab Order 2005, the London Cab Order 2006, the London Cab Order 2007, the London Cab Order 2008, the London Cab Order (No. 2) 2008, the London Cab Order 2009, the London Cab Order 2010, the London Cab Order 2011, the London Cab Order 2012, the London Cab Order (No. 2) 2012, the London Cab Order 2013, the London Cab Order 2014 and the London Cab Order 2016.

(b) if the applicant is disqualified by reason of the applicant's immigration status from driving a hackney carriage, or

(c) if the applicant has within the three years immediately preceding the date of his application held a cab-driver's licence and has, otherwise than by reason of illness or other unavoidable cause, failed to act as a cab-driver during any considerable part of the period for which the licence was granted or, where he has within the said three years held more than one such licence, the period for which the last of such licences was granted.”.

4 Insertion of new paragraph 25A

(1) After paragraph 25 of the Principal Order (Grounds for Refusal of Cab-drivers' Licences) (as amended by this Order) insert –

“25A Immigration matters

(1) For the purposes of paragraph 25, a person is disqualified by reason of the person's immigration status from driving a hackney carriage if the person is subject to immigration control and—

(a) the person has not been granted leave to enter or remain in the United Kingdom,
or

(b) the person's leave to enter or remain in the United Kingdom—

(i) is invalid,

(ii) has ceased to have effect (whether by reason of curtailment, revocation, cancellation, passage of time or otherwise), or

(iii) is subject to a condition preventing the person from driving a hackney carriage.

(2) For the purposes of this paragraph and paragraph 25, a person is subject to immigration control if under the Immigration Act 1971(c) the person requires leave to enter or remain in the United Kingdom.

(3) In determining for the purposes of paragraph 25 whether an applicant is disqualified by reason of the applicant's immigration status from driving a hackney carriage, Transport for London must have regard to any guidance issued by the Secretary of State.

(4) Where a person is at large in the United Kingdom by virtue of paragraph 21(1) of Schedule 2 to the Immigration Act 1971(d) (temporary admission or release from detention) –

(a) the person is to be treated for the purposes of this Order as if the person has been granted leave to enter the United Kingdom, but

(b) any restriction as to employment imposed under paragraph 21(2) of Schedule 2 to the 1971 Act(e) is to be treated as a condition of leave.

(5) Where a person is on immigration bail within the meaning of Part 1 of Schedule 10 to the Immigration Act 2016 -

(a) the person is to be treated for the purposes of paragraph 25 as if the person had been granted leave to enter the United Kingdom, but

(b) any condition as to the person's work in the United Kingdom to which the person's immigration bail is subject is to be treated for those purposes as a condition of leave.”.

5 Amendment of paragraph 27

(1) Paragraph 27 of the Principal Order (Form of Cab-driver's Licence and Issue of Copy of Licence) shall be amended as follows.

(2) In sub-paragraph (1) delete “and shall, unless sooner revoked or suspended, be in force for a period of three years or such less period (not being less than one year) as Transport for London may direct in pursuance of the proviso to Section 39 of the Road Traffic Act 1934:”.

6 Amendment of paragraph 30

(1) Paragraph 30 of the Principal Order (Revocation or Suspension of Cab-drivers' Licences) shall be amended as follows.

(2) After sub-paragraph 1 to the end of paragraph 30 substitute –

“(2) A relevant circumstance for the purposes of sub-paragraph (1) includes, but is not limited to, whether the licensee has been convicted of an immigration offence or required to pay an immigration penalty unless:

(a) in a case where the driver has been convicted of an immigration offence, the conviction is a spent conviction within the meaning of the Rehabilitation of Offenders Act 1974, or

(b) in a case where the driver has been required to pay an immigration penalty –

(d) Paragraph 21(1) of Schedule 2 is amended by section 42(1) and (4) of the Immigration, Asylum and Nationality Act 2006 (c.13).

(e) Paragraph 21(2) of Schedule 2 is amended by paragraph 10(1) of the Schedule to the Immigration Act 1988 (c.14).

(i) more than three years have elapsed since the date on which the penalty was imposed, and

(ii) the amount of the penalty has been paid in full.

(3) In the event of the revocation or suspension of a cab-driver's licence Transport for London shall cause notice thereof to be given to the licensee, and the licensee shall, within five days after such notice has been delivered to him personally or sent to him by registered post or by the recorded delivery service at the address mentioned in or last endorsed upon the licence, send or deliver the licence and his copy thereof and his badge to Transport for London for cancellation or for retention during the time of suspension, as the case may be, and if he fails so to do he shall be guilty of a breach of this Order.

(4) On the removal of a suspension of a cab-driver's licence which has not expired by the effluxion of time Transport for London shall return the licence and the copy thereof and the badge to the licensee.”.

7 Insertion of new paragraph 30A

(1) After paragraph 30 of the Principal Order (Revocation or Suspension of Cab-drivers' Licences) (as amended by paragraph 5 of this Order) insert —

“30A Immigration offences and immigration penalties

(1) In this Cab Order “immigration offence” means—

(a) an offence under any of the Immigration Acts,

(b) an offence under section 1 of the Criminal Attempts Act 1981 of attempting to commit an offence within paragraph (a), or

(c) an offence under section 1 of the Criminal Law Act 1977 of conspiracy to commit an offence within paragraph (a).

(2) In this Cab Order “immigration penalty” means a penalty under—

(a) section 15 of the Immigration, Asylum and Nationality Act 2006 (“the 2006 Act”),
or

(b) section 23 of the Immigration Act 2014 (“the 2014 Act”).

(3) For the purposes of this Cab Order a person to whom a penalty notice under section 15 of the 2006 Act has been given is not to be treated as having been required to pay an immigration penalty if—

(a) the person is excused payment by virtue of section 15(3) of that Act, or

(b) the penalty is cancelled by virtue of section 16 or 17 of that Act.

(4) For the purposes of this Cab Order a person to whom a penalty notice under section 15 of the 2006 Act has been given is not to be treated as having been required to pay an immigration penalty until such time as—

(a) the period for giving a notice of objection under section 16 of that Act has expired and the Secretary of State has considered any notice given within that period, and

(b) if a notice of objection was given within that period, the period for appealing under section 17 of that Act has expired and any appeal brought within that period has been finally determined, abandoned or withdrawn.

(5) For the purposes of this Cab Order a person to whom a penalty notice under section 23 of the 2014 Act has been given is not to be treated as having been required to pay an immigration penalty if—

(a) the person is excused payment by virtue of section 24 of that Act, or

(b) the penalty is cancelled by virtue of section 29 or 30 of that Act.

(6) For the purposes of this Cab Order a person to whom a penalty notice under section 23 of the 2014 Act has been given is not to be treated as having been required to pay an immigration penalty until such time as—

(a) the period for giving a notice of objection under section 29 of that Act has expired and the Secretary of State has considered any notice given within that period, and

(b) if a notice of objection was given within that period, the period for appealing under section 30 of that Act has expired and any appeal brought within that period has been finally determined, abandoned or withdrawn.”.

Signed by authority of
Transport for London

1 December 2016



Mike Brown
Commissioner of Transport

