

**Draft regulations: Tax conditionality for the hidden economy
Response from the Low Incomes Tax Reform Group (LITRG)**

1 General comments

- 1.1 We welcome the opportunity to comment briefly on these draft regulations, which apply from April 2022 to taxi and private hire vehicle drivers, and scrap metal dealers, in England and Wales. LITRG has been an active voice in the formation of this policy since the original consultation on tax conditionality was published in 2016.¹ Most recently, we commented on the relevant legislation now contained in Finance Act 2021, Schedule 33 ('the Schedule').²
- 1.2 We are pleased to see that the draft regulations make it clear that a telephone service will be available for applicants to complete the tax check prior to their licence renewal. However, we note that the current guidance on GOV.UK makes no reference to this telephone service and instead suggests that it must be completed online.³ The guidance should be updated in due course so that digitally-excluded taxpayers (including those who support them), and those who might simply prefer to carry out the check via telephone, are made aware of this alternative.
- 1.3 Paragraph 8(1)(a) of the Schedule states that HMRC may make provisions about 'the form and manner in which any information may or must be requested, or given, for the purposes of this

¹ <https://www.gov.uk/government/consultations/tackling-the-hidden-economy-conditionality>

² <https://www.litrg.org.uk/sites/default/files/files/LITRG-Finance-bill-briefing-2021-Clause-121-Schedule-32-Licensing-authorities.pdf>

³ <https://www.gov.uk/guidance/changes-for-taxi-private-hire-or-scrap-metal-licence-applications-from-april-2022>

Schedule'. Furthermore, paragraph 2(a) states:

“The licensing authority may not consider the [first-time] application until it has [...] drawn the applicant’s attention to such guidance relating to tax compliance as is for the time being *specified* for the purposes of this paragraph by the HMRC Commissioners...” (our emphasis)

1.4 It is therefore disappointing that the regulations contain nothing on this point. Licensing authorities need clear guidance on what information they should be required to provide to first-time applicants. We think this should be set out in the regulations. It will not be effective for the licensing authority to simply instruct the applicant to ‘read HMRC guidance on what you need to do’¹ or even to provide a set of hyperlinks. The information needs to be specific and accessible to all types of applicant, including the digitally-excluded. It should include, for example, clear information on the circumstances in which a taxpayer must register for Self Assessment (as well as how they do so, and by what date). We also recommend that HMRC invites stakeholder comment on the information which is to be provided to first-time licence applicants to ensure it is as effective as possible.

1.5 There are some cases where the taxpayer may legitimately not be registered for Self Assessment and it is unclear what information HMRC may request from the individual under paragraph 5(1)(a). We think it would be helpful if the regulations (or guidance) could clarify this in the following cases:

- a licence applicant who is treated as employed for the licensed activity and therefore would not normally need to register for Self Assessment because they pay all their tax under PAYE;
- a self-employed licence applicant whose trading income does not exceed the trading allowance for the year which is being checked;
- a self-employed licence applicant who is not required to notify liability under s7 Taxes Management Act 1970 because they have no such liability to notify – i.e. their income is within the relevant thresholds (namely, the personal allowance (for income tax); the Small Profits Threshold (for Class 2 National Insurance contributions); and the Lower Profits Limit (for Class 4 National Insurance contributions)).

2 About Us

2.1 The Low Incomes Tax Reform Group (LITRG) is an initiative of the Chartered Institute of Taxation (CIOT) to give a voice to the unrepresented. Since 1998, LITRG has been working to improve the policy and processes of the tax, tax credits and associated welfare systems for the benefit of those on low incomes. Everything we do is aimed at improving the tax and benefits experience of low-income workers, pensioners, migrants, students, disabled people and carers.

¹ <https://www.gov.uk/government/publications/licence-application-tax-check-communications-resources/tax-check-factsheet>

- 2.2 LITRG works extensively with HM Revenue & Customs (HMRC) and other government departments, commenting on proposals and putting forward our own ideas for improving the system. Too often the tax and related welfare laws and administrative systems are not designed with the low-income user in mind and this often makes life difficult for those we try to help.
- 2.3 The CIOT is a charity and the leading professional body in the United Kingdom concerned solely with taxation. The CIOT's primary purpose is to promote education and study of the administration and practice of taxation. One of the key aims is to achieve a better, more efficient, tax system for all affected by it – taxpayers, advisers and the authorities.

LITRG

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