Fife County Council Order Confirmation Act 1974

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ELIZABETH II



1974 CHAPTER xv

An Act to confirm a Provisional Order under the Private Legislation Procedure (Scotland) Act 1936, relating to Fife County Council. [17th July 1974]

WHEREAS the Provisional Order set forth in the schedule hereunto annexed has been made by the Secretary of State under the provisions of the Private Legislation Procedure (Scotland) Act 1936, and it is requisite that the said Order should be confirmed by Parliament: 1936 c. 52.

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1. The Provisional Order contained in the schedule hereunto annexed is hereby confirmed. Confirmation of Order in schedule.

2. This Act may be cited as the Fife County Council Order Confirmation Act 1974. Short title.

SCHEDULE

FIFE COUNTY COUNCIL

Provisional Order to confer on the County Council of the county of Fife powers with respect to the licensing and regulation of taxicabs and private hire cabs; and for other purposes.

Whereas it is expedient that provision should be made with respect to the licensing and regulation of taxicabs and private hire cabs within the landward part of the county of Fife and that powers should be conferred on the County Council of the said county in relation thereto as by this Order provided:

And whereas the purposes aforesaid cannot be effected without an Order confirmed by Parliament under the provisions of the Private Legislation Procedure (Scotland) Act 1936:

1936 c. 52.

Now therefore in pursuance of the powers contained in the last-mentioned Act the Secretary of State hereby orders as follows:—

PART I

PRELIMINARY

Short and collective titles.

1.—(1) This Order may be cited as the Fife County Council Order 1974.

(2) The Fife County Council Orders 1940 to 1970 and this Order may be cited together as the Fife County Council Orders 1940 to 1974.

Interpretation.

2.—(1) In this Order—

" the Act of 1947 " means the Local Government (Scotland) Act 1947;

1947 c. 43.

1972 c. 20.

" the Act of 1972 " means the Road Traffic Act 1972;

" the appointed day " has the meaning assigned to it by section 3 (The appointed day) of this Order;

" the authorised fare " in relation to any taxicab journey means the maximum fare authorised to be charged for the hire of the taxicab for such journey;

" cab " means every motor vehicle used, or intended to be used, for the carriage of passengers for hire or reward, and includes any motor vehicle kept in any premises for the purpose of being let out for hire with a driver, but does not include—

(*a*) any motor vehicle kept for the purpose of being let out for hire for the day, or any longer period; or

PART I —*cont.*

(*b*) any motor vehicle kept by any person in connection with any business carried on by him as a funeral director or undertaker and used wholly or partly in connection with such business; or

(*c*) a public service vehicle as defined in section 117 of the Road Traffic Act 1960; 1960 c. 16.

" cab driver's licence " means a licence granted under section 9 (Licensing of cab drivers) of this Order;

" contravention " includes a failure to comply and " contravene " shall be construed accordingly;

" the Council " means the County Council of the county of Fife;

" the county " means the county of Fife exclusive of any burgh therein;

" the county clerk " means the clerk to the Council or his duly authorised depute;

" a current licence " means a licence in force at the time in question;

" licensed private hire cab " means a private hire cab in respect of which a private hire cab licence is in force, " licensed taxicab " means a taxicab in respect of which a taxicab licence is in force, and " licensed cab " means a licensed private hire cab or a licensed taxicab;

" private hire cab " means a cab kept or made available for the purpose of being let out for hire with a driver other than a taxicab;

" private hire cab licence " means a licence granted under subsection (2) (*b*) of section 4 (Cab licences) of this Order;

" taxicab " means a cab used for standing or plying for hire in streets;

" taxicab licence " means a licence granted under subsection (2) (*a*) of the said section 4.

(2) Nothing in this Order shall—

(*a*) apply to a vehicle used for bringing passengers or goods within the county in pursuance of a contract for the hire of the vehicle made outwith the county if the vehicle is not made available for hire within the county;

(*b*) apply to a vehicle carrying passengers for hire or reward under a contract for the hire of such vehicle by the week or for longer periods of hire.

(3) Any reference in this Order to an enactment shall be construed as a reference to that enactment as applied, extended, amended or varied by, or by virtue of, any subsequent enactment including this Order.

PART I —*cont.*

The appointed day.

3.—(1) In this Order " the appointed day " means such day as may be fixed by resolution of the Council subject to, and in accordance with, the provisions of this section.

(2) The Council shall cause to be published in a local newspaper circulating in the county notice—

(*a*) of the passing of any such resolution and of the day fixed thereby; and

(*b*) of the general effect of the provisions of this Order coming into operation as from that day;

and the day so fixed shall not be earlier than the expiration of one month from the date of publication of the said notice.

(3) Either—

(*a*) a copy of any such newspaper containing any such notice; or

(*b*) a photostatic or other reproduction certified by the county clerk to be a true reproduction of a page, or part of a page, of any such newspaper bearing the date of its publication and containing any such notice;

shall be evidence of the publication of the notice and of the date of the publication.

(4) Where any provision of this Order coming into operation on a day fixed by resolution under this section requires the licensing of a person carrying on any business, or of any vehicle used by a person in connection with any business, it shall be lawful for any person who—

(*a*) immediately before that day was carrying on that business; and

(*b*) had before that day duly applied for the licence required by that provision;

to continue to carry on that business until he is informed of the decision with regard to his application and, if the decision is adverse, until the time for appealing has expired and, if an appeal is lodged, until the appeal is finally disposed of or abandoned.

PART II

TAXICAB AND PRIVATE HIRE CAB LICENCES

Cab licences.

4.—(1) As from the appointed day—

(*a*) no person shall use a vehicle, or permit a vehicle to be used, in the county as a taxicab or as a private hire cab unless he holds for such vehicle a current taxicab licence, or (as the case may be) a current private hire cab licence granted by the Council under this section; and

(*b*) no person shall use a vehicle, or permit a vehicle to be used, in the county as a licensed cab unless a plate or disc identifying the vehicle as a taxicab or (as the case may be) a private hire cab is exhibited on the vehicle in such manner as the Council may prescribe by condition attached to the grant of the licence.

PART II —*cont.*

(2) Subject to the provisions of subsection (3) of this section, the Council may grant to any person a licence to operate a motor vehicle as—

(*a*) a taxicab; or

(*b*) a private hire cab.

(3) The Council shall not grant a licence under this section unless they are satisfied—

(*a*) that the applicant is a fit and proper person by reason of health, qualification and character to hold a taxicab licence or (as the case may be) a private hire cab licence;

(*b*) that the vehicle is suitable in type, size and design for use as a taxicab or (as the case may be) a private hire cab;

(*c*) that the vehicle is in a satisfactory mechanical condition so that it is safe and comfortable;

(*d*) that there is in force in relation to the user of the vehicle a policy of insurance or such security as complies with the requirements of the Act of 1972.

(4) In every licence granted under this section there shall be specified—

(*a*) the registered number of the vehicle in respect of which the licence is granted;

(*b*) the name and surname and place of abode of—

(i) the applicant; and

(ii) every other person who is a proprietor of the licensed cab, or who is concerned, either solely or in partnership with any other person, in the keeping, employing or letting on hire of any such cab;

(*c*) the number of such licence, which shall correspond with the number to be painted or marked on the plate or disc to be affixed on such cab in accordance with subsection (1) (*b*) of this section; and

(*d*) such conditions and other particulars as the Council consider reasonably necessary.

(5) Where the Council grant a licence under this section in respect of a cab they shall issue a plate or disc identifying that vehicle as a licensed taxicab or (as the case may be) a licensed private hire cab.

(6) Where the Council decide not to grant a licence under this section they shall, if so required by the applicant for the licence within fourteen days from the date of the document intimating their decision, give to him, not later than forty-eight hours after receiving the requirement, a statement of the grounds upon which the decision was based.

(7) If any person contravenes the provisions of subsection (1) of this section he shall be guilty of an offence.

PART II —*cont.*

Transfer of cabs.

5. If a licensed cab is transferred to a person other than the proprietor whose name is specified in the licence, the proprietor shall, not less than seven days before such transfer, give notice thereof to the Council specifying the name and address of the person to whom the cab will be transferred, and the licence shall be deemed to be revoked if the Council disapprove the transfer of the licence to that person and the cab is or has been transferred to him:

Provided that the Council shall not disapprove the transfer of a licence to a person except upon the ground that he is not a fit and proper person to hold a taxicab licence or (as the case may be) a private hire cab licence.

Inspection of cabs, etc.

6.—(1) The proprietor of any licensed cab shall present the cab for inspection by the Council within such period, and at such place within the county, as the Council may by notice reasonably require:

Provided that the Council shall not under the provisions of this subsection require a proprietor to present the same cab for inspection on more than five separate occasions during any one period of twelve months.

(2) The proprietor of any licensed cab or the applicant for a licence under section 4 (Cab licences) of this Order shall, within such period as the Council may by notice reasonably require, state in writing the address of every place where such cab is ordinarily kept when not in use, and shall, if the Council so require, afford to the Council such facilities as may be necessary to enable the Council to cause such cab to be inspected there.

(3) The proprietor of a licensed cab shall report to the Council so soon as reasonably practicable, and in any case within seventy-two hours of the occurrence thereof, any accident causing damage to such cab materially affecting the safety, performance or appearance of the cab or the comfort or convenience of persons carried therein.

(4) Any authorised officer of the Council or any constable may require the proprietor of any licensed cab to produce for inspection the licence for such cab and the certificate of the policy of insurance or security required by the Act of 1972 in respect of such cab.

(5) If any person contravenes the provisions of this section, he shall be guilty of an offence.

Revocation of licences for cabs.

7.—(1) The Council may revoke a licence granted under section 4 (Cab licences) of this Order on any of the following grounds:—

(*a*) any offence under the provisions of this Order or any byelaws made under this Order;

(*b*) any conduct on the part of the proprietor, or in the case of a licensed private hire cab the person by whom bookings for the hire of the cab are invited or accepted, being conduct which appears to the Council to render the licence holder unfit to hold a licence;

(*c*) any material change since the licence was granted in any of the circumstances of the operation of the cab on the basis of which the licence was granted; or

(*d*) for any other reasonable cause.

(2) Where the Council revoke any such licence under this section they shall give to the licence holder notice of the grounds on which the licence has been revoked. PART II —*cont.*

Return of identification plate or disc.

8.—(1) The Council may by notice require the proprietor of a cab to return to the Council within seven days of the service on him of such notice the plate or disc identifying such cab—

(*a*) on the revocation, expiry or surrender of the taxicab licence or the private hire cab licence in respect of which such plate or disc was issued; or

(*b*) on the disapproval by the Council under section 5 (Transfer of cabs) of this Order of the transfer of the cab.

(2) If any proprietor contravenes a notice under subsection (1) of this section, he shall be guilty of an offence unless he has reasonable cause for such contravention.

(3) If any such proprietor fails to comply with the terms of a notice under subsection (1) of this section within seven days after the service upon him of such notice, any authorised officer or constable shall be entitled to remove and retain the said plate or disc from the said cab then or at any time thereafter.

PART III

DRIVERS' LICENCES

Licensing of cab drivers.

9.—(1) As from the appointed day—

(*a*) no person shall stand or ply for hire, or carry passengers on a hiring, in a licensed taxicab unless he holds a current licence to drive a taxicab granted under this section;

(*b*) no person shall carry passengers on a hiring in a licensed private hire cab unless he holds a current licence to drive a taxicab or a private hire cab;

(*c*) no person shall employ as the driver of a licensed cab for the purpose of any hiring any person who does not hold a current cab driver's licence authorising him to drive that cab.

(2) The Council may grant to any person—

(*a*) a licence to drive a taxicab and a private hire cab; or

(*b*) a licence to drive a private hire cab.

(3) The Council may require any applicant for a licence to drive a cab—

(*a*) to produce a certificate signed by a registered medical practitioner to the effect that he is physically fit to be the driver of a cab; and

(*b*) (whether or not such a certificate has been produced) to submit to examination by a registered medical practitioner selected by the Council as to his physical fitness to be the driver of a cab;

(*c*) to show that he has been for at least twelve months and is at the date of the application the holder of a licence (not being a provisional licence) granted under the Act of 1972.

(4) If any person contravenes the provisions of subsection (1) of this section, he shall be guilty of an offence.

PART III —*cont.*

Revocation of cab drivers' licences.

10.—(1) The Council may revoke the cab driver's licence of any driver who is convicted in any court in the United Kingdom of—

(*a*) any offence inferring dishonest appropriation of property; or

(*b*) any offence inferring personal violence; or

(*c*) any offence inferring indecency; or

(*d*) culpable homicide or a contravention of sections 1, 2, 5 or 6 of the Act of 1972 involving any motor vehicle of which such driver is in charge; or

(*e*) any offence resulting in suspension of the licence granted to him under the Act of 1972; or

(*f*) any offence under the provisions of this Order or any byelaws made under this Order;

or for any other reasonable cause.

(2) The holder of a cab driver's licence which has been revoked in pursuance of this section shall return it to the county clerk within forty-eight hours of such revocation, and if he fails to do so, he shall be guilty of an offence unless he has reasonable cause for such failure.

(3) A copy of this section, or of a note to its effect, shall be endorsed on each cab driver's licence.

PART IV

FARES FOR TAXICABS

Fares for taxicabs.

11.—(1) The fares for the hire of taxicabs (including any charges for the carriage of luggage therein) shall be such as may be determined from time to time by the Council.

(2) Before fixing or varying any such fares the Council shall—

(*a*) consult with such persons or organisations as appear to them to be representative of a substantial number of the holders of taxicab licences; and

(*b*) publish in at least one local newspaper circulating in the county notice of their intention stating—

(i) the general effect of the proposals;

(ii) that any person may lodge representations in writing with respect to the said proposals with the county clerk; and

(iii) the period within which such representations must be lodged not being earlier than fourteen days after the date of publication of the notice.

(3) Where the Council, after such consultation and after considering any such representations, fix or vary any such fares they shall publish in at least one local newspaper circulating in the county notice thereof specifying—

(*a*) details of the fares so fixed or varied; and

(*b*) the date on which such fares shall come into operation.

PART IV —*cont.*

12.—(1) Any holder of a taxicab licence and any driver of a taxicab who—

Authorised or agreed taxicab fare not to be exceeded.

(*a*) demands as a fare a sum in excess of the authorised fare; or

(*b*) having agreed beforehand with any person hiring such cab to charge a sum less than the authorised fare for such hire, demands a sum in excess of the sum so agreed upon;

shall be guilty of an offence.

(2) A person shall not be bound by any agreement with the driver, or with any person in charge, of any taxicab for the payment of a fare in excess of the authorised fare, and any person who has made such an agreement may refuse to pay any sum in excess of the authorised fare.

Refusal to pay taxicab fare.

13. Any person hiring a licensed taxicab who on the completion of such hire refuses to pay—

(*a*) the authorised fare; or (as the case may be)

(*b*) any fare less than the authorised fare agreed beforehand with the holder of the taxicab icence or the driver of the taxicab;

shall be guilty of an offence.

Taxicab stances.

14.—(1) (*a*) The Council may appoint stances in streets in the county for taxicabs.

(*b*) Nothing in this subsection shall empower the Council to appoint any such stance so as to prevent reasonable access to any premises.

(2) The Council may indicate the limits of authorised taxicab stances by the use of such road markings as may be specified for that purpose in regulations made by the Secretary of State acting jointly in pursuance of his powers in section 54 of the Road Traffic Act 1967. 1967 c. 21.

PART V

CAB BYELAWS

Byelaws as to cabs and drivers of cabs, etc.

15.—(1) The Council may make byelaws for all or any of the following purposes:—

(*a*) regulating the type, construction, equipment, cleanliness, maintenance and operation of cabs, and the age in excess of which motor vehicles shall not be licensed as cabs;

(*b*) regulating the numbering of taxicabs, and the issue of plates or discs identifying taxicabs and indicating such numbers, and fixing the charges for the use of such plates or discs;

(*c*) regulating the issue of plates or discs identifying private hire cabs and fixing the charges for the use of such plates or discs;

(*d*) requiring that every taxicab shall be equipped with a taximeter, regulating the fixing and testing of each such taximeter, and prohibiting interference with any such taximeter or causing it to register incorrectly;

PART V —*cont.*

(*e*) regulating the number of persons to be carried in taxicabs and securing the due display of the prescribed number in or on each taxicab;

(*f*) regulating the carrying of luggage in or on taxicabs;

(*g*) regulating the disposal of articles found in or on cabs;

(*h*) prohibiting or regulating the display of advertising matter in or on cabs;

(*i*) regulating the conduct and duties of drivers of cabs when acting as such, and of the holders of taxicab licences and private hire cab licences in relation to their cabs;

(*j*) regulating the use of authorised taxicab stances; and

(*k*) regulating the conduct of passengers in cabs and providing for the withholding of fares by passengers in prescribed circumstances.

(2) Byelaws made under subsection (1) (*a*), (*g*), (*h*), (*i*) and (*k*) of this section may contain different provisions in relation to taxicabs and private hire cabs.

(3) Byelaws made under subsection (1) (*a*) of this section shall not, for five years from the coming into operation of any such byelaws, apply to any motor vehicle in respect of which a private hire cab licence was then in force.

PART VI

TAXIMETERS

Vehicles other than taxicabs not to be fitted with taximeters, etc.

16.—(1) No person shall have on any motor vehicle belonging to him or under his control which is not a licensed taxicab—

(*a*) any taximeter or similar apparatus, or any device having the appearance of a taximeter or similar apparatus; or

(*b*) any notice, sign or other indication which might reasonably be taken to indicate that the vehicle is a licensed taxicab.

(2) Subsection (1) of this section shall not apply in relation to any motor vehicle—

(*a*) licensed by any other local authority for the carriage of passengers for hire or reward; or

(*b*) kept outwith the county which is within the county in the course of a journey which originated outwith the county.

(3) If any person contravenes the provisions of this section, he shall be guilty of an offence.

PART VII

SUPPLEMENTARY

Applications for licences.

17. Every application for the grant of a licence under this Order shall be made in writing at such time, and in such form, and shall be

signed by or on behalf of the applicant, and shall contain, or be accompanied by, such reasonable particulars and information as the Council may require.

Penalty for false statements in applications for licences.

18. If any person in, or in connection with, any application for the grant of a licence under this Order—

(*a*) makes any statement which he knows to be false in a material particular; or

(*b*) recklessly makes any statement which is false in a material particular;

he shall be guilty of an offence.

Reporting changes in particulars relating to licences.

19.—(1) If, during the currency of a licence granted under this Order, any material change occurs in the facts of which particulars and information were contained in, or given along with, the application for the licence, the holder of the licence shall report such change to the county clerk forthwith.

(2) If the holder of such a licence contravenes this section, he shall be guilty of an offence unless he has reasonable cause for such contravention.

Form and conditions of licence.

20. Without prejudice to the provisions of subsection (4) of section 4 (Cab licences) of this Order, a licence under this Order shall be in such form as the Council may determine, and shall be subject to such reasonable conditions as may be specified in the licence, including, without prejudice to the generality of the foregoing, conditions restricting its validity to specified localities within the county.

Duration of licences.

21.—(1) A taxicab licence, a private hire cab licence and a cab driver's licence may be granted for such period, not exceeding one year, as the Council may determine, and as shall be specified in the licence.

(2) A licence granted to any person under this Order shall cease to have effect if his estate is sequestrated, or he is adjudged bankrupt elsewhere than in Scotland, or signs a trust deed for creditors:

Provided that such licence (unless it otherwise terminates or is terminated) shall continue in favour of such a person as the Council may determine until the expiration of two months from the date of sequestration, or the date of the holder of the licence being adjudged bankrupt, or the signing of the trust deed for creditors (as the case may be), or such longer period as the Council may allow.

Fees for licences

22.—(1) Subject to the provisions of subsection (2) of this section, the Council may charge such fees for the grant of taxicab licences, private hire cab licences and cab drivers' licences as may be resolved by the Council from time to time.

(2) The fees chargeable under this section shall not exceed—

(*a*) for the grant of a taxicab licence, twenty pounds;

PART VII —*cont.*

(*b*) for the grant of a private hire cab licence, twenty pounds;

(*c*) for the grant of a cab driver's licence, five pounds.

Register of applications for licences.

23. The Council shall cause a register to be kept of applications for each class of licence which may be granted under this Order, specifying how such applications were disposed of, the particulars in the case of each licence granted and all changes relating to such particulars intimated to them.

Licence holders may surrender licences.

24. The holder of a licence granted under this Order may surrender it during its currency on sending notice to that effect, along with the licence, to the county clerk, and such licence shall cease to have effect on the expiration of fourteen days from the date of the receipt of such notice and licence, or such earlier date as may be specified in such notice.

Restriction on power to refuse or revoke licences.

25. The Council shall not—

(*a*) refuse an application for the grant of a licence under this Order; or

(*b*) revoke a licence under this Order;

without first giving the applicant or holder of the licence, as the case may be, an opportunity of being heard in person or by a representative.

Appeals against refusal or revocation of licences.

26.—(1) Any applicant for, or holder of, a licence under this Order who is aggrieved by any decision of the Council—

(i) refusing his application; or

(ii) specifying a condition in the licence; or

(iii) revoking his licence; or

(iv) varying materially the conditions subject to which a previous licence was held by him;

may appeal to the Sheriff.

(2) Where the conditions subject to which any licence has been granted under this Order are varied materially from those applied to the licence previously held by the applicant, such variations shall not take effect until the time for appealing has expired and, if an appeal is lodged, until the appeal is finally disposed of or abandoned, and until such time the licence shall be deemed to have been granted subject to conditions applicable to the previous licence.

Appeals to Sheriff.

27.—(1) An appeal to the Sheriff under section 26 (Appeals against refusal or revocation of licences) of this Order shall, subject to the provisions of this Order, be by way of initial writ under the Sheriff Courts (Scotland) Acts 1907 to 1971 and shall be disposed of as a summary application as defined in those Acts.

(2) The period within which such appeal may be brought shall be fourteen days from the date on which the decision was intimated to the person concerned.

PART VII —*cont.*

(3) In any case where such an appeal lies the document intimating the decision to the person concerned shall state the right of appeal and the period within which such appeal may be brought.

(4) (*a*) The Sheriff may confirm, vary or set aside the decision appealed against and, subject as hereinafter provided in this section, the Council shall give effect to the interlocutor of the Sheriff.

(*b*) If, and in so far as, an appeal is based on the ground of an informality, defect or error in, or in connection with, the decision appealed against, the Sheriff shall dismiss the appeal if such informality, defect or error was not material.

(5) Where any decision against which a right of appeal is conferred by this Order makes it unlawful for any person to carry on any business which he was lawfully carrying on up to the time of the decision, then, until the time for appealing has expired, or, when an appeal is lodged, until the appeal is disposed of or abandoned that person may carry on that business.

(6) (*a*) On any appeal under this section the Sheriff may, at any stage of the proceedings, and shall, whether before or after the conclusion of the proceedings, at the request of any party to the appeal, state a case for the opinion of the Court of Session on any question of law arising in connection with the appeal.

(*b*) An appeal shall lie, with the leave of the Court of Session or of the House of Lords, from any decision of the Court of Session under this section, which leave may be given on such terms as to costs or otherwise as the Court of Session or the House of Lords may determine.

Penalties.

28. Any person who commits an offence against any of the provisions of this Order shall be liable on summary conviction to a fine not exceeding fifty pounds.

Costs of Order.

29.—(1) The costs, charges and expenses preliminary to, and of and incidental to, the preparing, applying for, obtaining and passing of this Order or otherwise in relation thereto shall be paid by the Council out of the county fund or out of moneys to be borrowed under this section.

(2) (*a*) The Council may borrow such sums as may be necessary for paying the costs, charges and expenses of this Order in the same manner as if the said purposes were included among the purposes mentioned in section 258 (1) of the Act of 1947.

(*b*) The Council shall repay the sums borrowed under this subsection within ten years from the date of borrowing.

PRINTED IN ENGLAND BY OYEZ PRESS LIMITED
FOR HAROLD GLOVER
Controller of Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament

LONDON: PUBLISHED BY HER MAJESTY'S STATIONERY OFFICE

14p net

ISBN 0 10 511574 6