

## Welcome to the latest edition of licensing news

This bulletin gives an update on current issues and recent developments for GLA licence holders and applicants

This issue covers:

- Accommodation
- Vehicles
- Statutory Breaks
- Statutory Sick Pay
- Employing Bulgarians and Romanians
- Licence Renewal
- Personal Protective Equipment
- Revoked Licences and reapplications

## Accommodation – what does “effectively providing” mean?

Any licence holder who provides, or effectively provides, accommodation to workers needs to comply with the relevant sections of the GLA’s licensing standards.

We apply the same interpretation of “effectively providing” as the Department for Business, Enterprise and Regulatory Reform (BERR) does for the National Minimum Wage (NMW) and Accommodation Offset.

This interpretation is set out in BERR’s guidance on the NMW and the accommodation offset. This is available on the BERR website: [www.berr.gov.uk/employment/pay/national-minimum-wage/index.html](http://www.berr.gov.uk/employment/pay/national-minimum-wage/index.html)

## Vehicles – what does “obvious / identifiable safety defects” mean?

Licensing standard 6.8 requires any vehicles used by a licence holder are “maintained and that there are no obvious / identifiable serious defects”.

We apply two common sense tests when looking for obvious and identifiable defects:

- Is there evidence through MOT and maintenance records that the vehicle is maintained?
- Would you feel safe travelling in the vehicle? For example, there must be no obvious problems such as no seatbelts or unsafe seats / doors.

If there is any doubt, we will refer the case to the police or the Vehicle and Operator Services Agency.

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## Statutory breaks

GLA licensing standard 5.1 specifies that “workers are allowed to take statutory breaks”.

In assessing this standard during an inspection, we will check that workers are aware of the right to breaks and the employer is complying with Working Time Regulations. If the workers freely choose not to take a rest break, then this standard would not be failed. For more information on the Working Time Regulations, please see the BERR guidance:

[www.berr.gov.uk/employment/employment-legislation/working-time-regs/index.html](http://www.berr.gov.uk/employment/employment-legislation/working-time-regs/index.html)

## Statutory Sick Pay

Following the case of HMRC v Thorn Baker Ltd, Statutory Sick Pay is not payable to workers whose contract is for a specified period of 3 months or less. We are applying this finding in relation to licensing standard 2.9. Please note, workers can become entitled to Statutory Sick Pay if in a single contract:

- They work longer than the original period specified and the total period actually worked exceeds three months; **or**
- The contract is extended for more than three months

For more information on this judgment, please see the HMRC website:

[www.hmrc.gov.uk/employers/thornbaker.htm](http://www.hmrc.gov.uk/employers/thornbaker.htm)

## Employing Romanians and Bulgarians

There are restrictions for employing Romanians and Bulgarians. More information can be found on the Border and Immigration Agency website: [www.bia.homeoffice.gov.uk/workingintheuk/bulgariaromania/](http://www.bia.homeoffice.gov.uk/workingintheuk/bulgariaromania/)

If you are considering supplying Romanians and Bulgarians, you should check these restrictions. Only those who are genuinely self-employed (who must be registered with the HMRC) may be supplied outside of these restrictions.

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## Licence renewal

We would like to remind licence holders of the process for renewing their licence:

- We will write to licence holders 6 weeks before their licence expiry date to explain the renewal process. If necessary, this will be followed by a further reminder letter and telephone call.
- Your licence will expire if it is not renewed in time. You will need to apply for a new licence (which includes paying both the licence fee and application inspection charge). You will be committing an offence if you supply labour in the licensed sectors before a new licence is issued.

## Personal Protective Equipment

As a reminder, there should be no charging for Personal Protective Equipment (PPE) which is required for use following a risk assessment in any workplace. This applies whether the worker is assigned to a single workplace or multiple workplaces.

In a situation where PPE is required in a workplace the only circumstance where the GLA may consider it acceptable for the Labour Provider to seek a contribution from the worker (limited to the cost to the Labour Provider of that PPE) is where the worker states that they wish to own the PPE and have free right to do with it as they wish outside of the workplace. Also in practice the worker must have been able to use the PPE for "non-work purposes". The GLA do not regard the wearing of high visibility coats and protective footwear to and from work as a "non-work purposes".

## Revoked licences and reapplications

We would like to explain how the GLA Public Register is affected if a licence is revoked without immediate effect and a new application is made.

Anyone who has their licence revoked is entitled to reapply for a new licence before any appeal is heard. Provided the failures that led to the revocation are remedied, and no new serious non-compliances are identified, a new licence can be issued.

Those who have had licences revoked without immediate effect continue to appear as "licensed" on the GLA Public Register until any appeal is not upheld. If a new licence application is submitted during this period, a new register entry of "Applied" will be displayed on the Public Register. This means some businesses may have two entries of "Licensed" and "Applied".

Please note not all cases where a company has two entries mean that the company has had a licence revoked without immediate effect. In certain situations, for example where the legal status of the labour provider changes from sole trader to limited company, a new application is required. In such cases, there will also be two register entries.

## Further Information

If you have any queries, please contact us on **0845 602 5020** or [enquiries@gla.gsi.gov.uk](mailto:enquiries@gla.gsi.gov.uk)