



Licensing (Scotland) Act 2005

2005 asp 16

PART 9

MISCELLANEOUS AND GENERAL

Relevant and foreign offences

129 Relevant offences and foreign offences

- (1) In this Act, “relevant offence” means—
 - (a) such offence, or
 - (b) an offence of such description,as may be prescribed.
- (2) In this Act, “foreign offence” means any offence—
 - (a) under the law of any place other than Scotland, and
 - (b) which is similar in nature to any relevant offence.
- (3) Regulations under subsection (1) may provide, in relation to any offence or description of offence prescribed in them, that a person is to be treated, for the purposes of such provisions of this Act as may be specified in the regulations, as having been convicted of the offence only if the person—
 - (a) accumulates such number of separate convictions for the offence, or
 - (b) is convicted of committing the offence on such number of separate occasions,as may be so specified.
- (4) For the purposes of this Act, a conviction for a relevant offence or a foreign offence is to be disregarded if it is spent for the purposes of the Rehabilitation of Offenders Act 1974 (c. 53).
- ^[F1](5) For the purposes of the provisions of this Act specified in subsection (6), section 247(1) and (2) of the Criminal Procedure (Scotland) Act 1995 (c.46) (convictions deemed not to be convictions where offender placed on probation or discharged absolutely) does not apply to a conviction for a relevant offence.
- (6) Those provisions are—

Changes to legislation: Licensing (Scotland) Act 2005, Cross Heading: Relevant and foreign offences is up to date with all changes known to be in force on or before 18 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (a) section 21(4),
- (b) section 23(6),
- (c) section 24,
- (d) section 33(6),
- (e) sections 41 to 44,
- (f) section 73(3),
- (g) section 75,
- (h) sections 80 to 83,
- (i) section 89(4) and (5),
- (j) subsection (3) of this section, and
- (k) section 130.]

Textual Amendments

F1 S. 129(5)(6) added (28.3.2011) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), **ss. 24(5), 206(1)**; [S.S.I. 2011/178](#), art. 2, Sch.

Commencement Information

II S. 129 in force at 1.5.2007 by [S.S.I. 2007/129](#), art. 3, Sch.

130 Effect of appeal against conviction for relevant or foreign offence

- (1) The fact that any conviction of any person for a relevant offence or foreign offence is subject to appeal does not affect the taking of any action by a Licensing Board which the Board is entitled or required to take in connection with the conviction by virtue of any provision of this Act.
- (2) The Licensing Board may, however, postpone the taking of the action for such period as the Board considers appropriate pending the appeal.
- (3) Where the conviction is overturned on appeal—
 - (a) any action taken by the Licensing Board in reliance on the conviction is to be treated as having no effect, and
 - (b) accordingly, the Licensing Board must take such steps as are necessary to return any applicant or licence holder adversely affected by the action to the position the applicant or licence holder would have been in had the action not been taken.
- (4) A conviction is subject to appeal for the purposes of subsection (1) if—
 - (a) the period during which an appeal may be taken against the conviction has not yet expired, or
 - (b) an appeal is taken against the conviction and the appeal has not yet been determined.

Commencement Information

I2 S. 130 in force at 1.2.2008 by [S.S.I. 2007/472](#), art. 2, Sch. 1

Changes to legislation:

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Changes and effects yet to be applied to :

- specified provision(s) Appointed Day(s) by [S.S.I. 2006/239 art. 2](#) (This S.S.I. is revoked on 25.5.2006 by S.S.I. 2006/286, art. 6)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 33(1)(1A) substituted for s. 33(1)-(3) by [2015 asp 10 s. 49\(2\)\(a\)](#)
- s. 33(8)(za) inserted by [2015 asp 10 s. 49\(2\)\(c\)](#)
- s. 33(8A) inserted by [2015 asp 10 s. 49\(2\)\(d\)](#)
- s. 33A inserted by [2015 asp 10 s. 49\(4\)](#)
- s. 134ZA-134ZC inserted by [2015 asp 10 s. 61\(2\)](#)