Licensing (Scotland) Act 2005

2005 asp 16

PART 6

PERSONAL LICENCES

Conduct inconsistent with licensing objectives

84 Conduct inconsistent with the licensing objectives

(1) This section applies where, in the course of a review hearing in respect of any premises licence, a Licensing Board makes a finding such as is mentioned in subsection (2) in relation to any personal licence holder who is or was working in the licensed premises in respect of which the premises licence was issued ("the licensed premises concerned").

(2) That finding is a finding that the licence holder concerned, while working as mentioned in subsection (1), acted in a manner which was inconsistent with any of the licensing objectives.

(3) The Licensing Board making the finding must—

(a) if the licence holder concerned is, at the time of the finding, working in licensed premises (whether the licensed premises concerned or other licensed premises) in that Board's area, hold a hearing,

(b) in any other case, give notice to the relevant Licensing Board of their finding together with a recommendation as to whether the personal licence held by the licence holder concerned should be revoked, suspended or endorsed.

(4) In subsection (3)(b), "relevant Licensing Board" means—

(a) if the Licensing Board making the finding referred to in subsection (1) has reason to believe that the licence holder concerned is working at licensed premises situated in the area of another Licensing Board, that other Licensing Board,

(b) in any other case, the Licensing Board which issued the personal licence held by the licence holder concerned.

(5) Where a Licensing Board receives a notice and recommendation under subsection (3)(b), the Board must hold a hearing.

Changes to legislation: *Licensing (Scotland) Act 2005, Section 84 is up to date with all changes known to be in force on or before 29 May 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*

(6) At a hearing under subsection (3)(a) or (5), the Licensing Board may—

(a) after giving—

(i) the licence holder concerned, and

(ii) such other persons as they consider appropriate,

an opportunity to be heard, and

(b) if satisfied that it is necessary to do so for the purposes of any of the licensing objectives,

make an order under subsection (7).

[[F1](6A) Subsection (6) is subject to subsection (7A).**]**

(7) That is an order—

(a) revoking,

(b) suspending for such period, not exceeding 6 months, as the Board considers appropriate, or

(c) endorsing,

the personal licence held by the licence holder concerned.

[[F2](7A) Where, at the hearing, the Licensing Board are satisfied that, having regard to the licensing objectives, the licence holder is not a fit and proper person to be the holder of a personal licence, the Board must make an order revoking the licence.**]**

(8) Where the Licensing Board makes an order under subsection (7) **[**[F3]or (7A)**]** , the Board must give—

(a) the licence holder concerned,

(b) where the hearing was held in pursuance of a notice given under subsection (3)(b), the Licensing Board which gave the notice, and

(c) if different, the Licensing Board which issued the personal licence,

notice of the order and of the reasons for making it.

Textual Amendments

F1 S. 84(6A) inserted (15.5.2017) by Air Weapons and Licensing (Scotland) Act 2015 (asp 10), **ss. 48(2)(a)**, 88(2); S.S.I. 2017/119, art. 2, sch. (with arts. 3, 4)

F2 S. 84(7A) inserted (15.5.2017) by Air Weapons and Licensing (Scotland) Act 2015 (asp 10), **ss. 48(2)(b)**, 88(2); S.S.I. 2017/119, art. 2, sch. (with arts. 3, 4)

F3 Words in s. 84(8) inserted (15.5.2017) by Air Weapons and Licensing (Scotland) Act 2015 (asp 10), **ss. 48(2)(c)**, 88(2); S.S.I. 2017/119, art. 2, sch. (with arts. 3, 4)

Commencement Information

I1 S. 84 in force at 1.9.2009 at 5.00 a.m. by S.S.I. 2007/472, **art. 3**

Changes to legislation:
Licensing (Scotland) Act 2005, Section 84 is up to date with all changes known to be in force on or before 29 May 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.
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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)