
SCOTTISH STATUTORY INSTRUMENTS

2007 No. 454

The Licensing (Transitional and Saving Provisions) (Scotland) Order 2007

Special procedure for certain applications under the 2005 Act

17.—(1) Where an application under section 20 of the 2005 Act (including an application under that section as applied by section 45(10) of that Act) falls within article 18 or 19, paragraphs (2) to (5) apply.

(2) The application does not require to be accompanied by any certificates otherwise required by section 50(1) or (2) of that Act.

(3) The Board is not entitled to refuse the application on the ground specified in paragraph (e) of section 23(5) of that Act.

(4) Where the application is not a provisional premises licence application and the Board is minded to refuse the application only on the ground specified in paragraph (d) of section 23(5) of that Act but would not be so minded if certain modifications were made to the character and condition of the premises, the Board is to grant the application.

(5) Following expiry of the period of 12 months after an application has been granted in terms of paragraph (4), the Board is to—

- (a) hold a hearing; or
- (b) continue the case for a further period of 12 months.

(6) At a hearing under paragraph (5)(a), the Board may—

- (a) decide that the modifications referred to in paragraph (4) have been made;
- (b) if not satisfied that those modifications have been made, revoke the licence; or
- (c) continue the case for a further period of 12 months.

(7) Following expiry of a further period of 12 months referred to in paragraph (5)(b) or (6)(c), the Board is to hold a hearing.

(8) At a hearing under paragraph (7), the Board may—

- (a) decide that the modifications referred to in paragraph (4) have been made; or
- (b) if not satisfied that those modifications have been made, revoke the licence.

(9) Subsections (3) to (6) of section 38 of the 2005 Act are (subject to such modifications as are appropriate) to apply to a hearing under paragraph (5)(a) or (7) as they apply to a review hearing under that section.

(10) For the purposes of sections 131 and 132 of the 2005 Act, a decision to revoke a licence under paragraph (6)(b) or (8)(b) is to be treated as if it were a decision listed in Part 2 of schedule 5 to that Act.